

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

74-1977

IN THE
UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

NO. 74-1977

SELENE WEISE,
APPELLANT

VS

SYRACUSE UNIVERSITY,
etc., et al.,

APPELLEES

APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE NORTH-
ERN DISTRICT OF NEW YORK

APPENDIX TO APPELLANT'S BRIEF



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Attorney for Appellant

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PAGINATION AS IN ORIGINAL COPY

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SELENE WEISE, on behalf of herself and on
behalf of all persons similarly situated,

Plaintiffs,

-VS-

73-CV-420

SYRACUSE UNIVERSITY, an educational corporate
entity, DR. MELVIN EGGERS, Chancellor,
DR. CLIFFORD L. WINTERS, Vice-Chancellor,
DR. RAY IRWIN, DR. BEULAH ROHRlich, and
DR. PAUL RIED,

Defendants.

NOTICE OF APPEAL TO THE UNITED
STATES COURT OF APPEALS FOR THE
SECOND CIRCUIT FROM A MEMORANDUM-
DECISION and ORDER OF THE UNITED
STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF NEW YORK

NOTICE IS HEREBY GIVEN that the Plaintiff, above-named,
hereby appeals to the United States Court of Appeals for the
Second Circuit from the Memorandum-Decision and Order of the
United States District Court for the Northern District of New
York, the Honorable James T. Foley presiding, which Memorandum-
Decision and Order granted the Defendants' Motion to Dismiss
for lack of subject matter jurisdiction or for the failure to
state a claim upon which relief can be granted and which dis-
missed the Plaintiff's Complaint accordingly. Furthermore, the
Memorandum-Decision and Order granted the Defendants' request
to deny class status to this action.

The Memorandum-Decision and Order, so described, was handed down by Judge James T. Foley on June 10, 1974 and filed with the Clerk of the United States District Court for the Northern District of New York, accordingly.

SELENE WEISE
301 Salt Springs Road
Syracuse, New York

FOR HERSELF

JAMES I. MEYERSON
1790 Broadway - 10th Floor
New York, New York 10019
(212) 245-2100

Attorney for Plaintiff

SELENE WEISE, being first duly sworn, deposes and says: on July ____, 1974, I did serve a copy of this Notice of Appeal upon the attorneys for the Defendants by mailing the same to them, postage prepaid, first class, as follows: David Sexton, Esq., c/o Bond, Schoeneck & King, One Lincoln Plaza, Syracuse, New York.

SELENE WEISE

Sworn to and subscribed before me
this ____ day of July, 1974.

NOTARY PUBLIC

My Commission Expires: _____

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

CIVIL APPEAL PRE-ARGUMENT STATEMENT

filed by appellant with Clerk of Court of Appeals and served on
parties within ten days after filing notice of appeal.)

CASE TITLE (Complete)

Selene Weise

VS

Syracuse University, etc., et. al.

(Attach additional sheets if space is not sufficient)

APPEAL FROM DISTRICT COURT

DISTRICT ► N.D.N.Y.

DISTRICT COURT DOCKET NUMBER ► 73 Civ 420

DATE FILED IN DISTRICT COURT ► MO. DAY YEAR 9 73

DATE NOTICE OF APPEAL FILED ► 7/8/74

RELATED CASE(S) ► None 73 Civ. 545
Temp. No 3513

Is this a cross appeal YES ☐ NO ☒

COUNSEL NAME
FOR APPELLANTS:

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(212) 245-2100

FOR APPELLEES:

Bond, Schoeneck & King One Lincoln Plaza, Syracuse, New York
BY: David Sexton, Esq. (315) 422-0121

Check One Box Only

NATURE OF SUIT

NATURE OF SUIT		AFFIDAVIT UNDER STATUTE		PROPERTY RIGHTS	
CONTRACT	TORTS	CIVIL RIGHTS	FORFEITURE PENALTY	PROPERTY RIGHTS	PROPERTY RIGHTS
INSURANCE	PERSONAL INJURY	<input type="checkbox"/> VIOLENCE	<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> COPYRIGHT	<input type="checkbox"/> TRADEMARK
MARINE	AIRPLANE	<input type="checkbox"/> FIRE	<input type="checkbox"/> FOOD & DRUG	<input type="checkbox"/> PATENT	
WILLER ACT	ABUSE, LIBEL & SLANDER	<input type="checkbox"/> ACCOMMODATION	<input type="checkbox"/> LIQUOR LAWS	OTHER STATUTES	
NEGOTIABLE INSTRUMENT	PERSONAL EMPLOYEE LIABILITY	<input type="checkbox"/> RELEASE	<input type="checkbox"/> A.R. & TAVER	<input type="checkbox"/> STATE AS APPEALMENT	<input type="checkbox"/> AGRICULTURAL ACTS
RECOVERY OF REAL ESTATE & ENVIRONMENTAL IMPROVEMENT	MARINE	<input type="checkbox"/> OTHER CIVIL RIGHTS	<input type="checkbox"/> AIR LINE REGS.	<input type="checkbox"/> ANTI TRUST	<input type="checkbox"/> ECONOMIC STABILIZATION ACT
OTHER CONTRACT	MOTOR VEHICLE	PRISONER PETITIONS	<input type="checkbox"/> OTHER	<input type="checkbox"/> BANKRUPTCY TRUSTS	<input type="checkbox"/> ENVIRONMENTAL MATTERS
	OTHER PERSONAL INJURY	STATE EMPLOYEE LITIGATION	<input type="checkbox"/> LABOR	<input type="checkbox"/> BANKS AND BANKING	<input type="checkbox"/> ENVIRONMENTAL MATTERS
REAL PROPERTY	PERSONAL PROPERTY	<input type="checkbox"/> FIDELITY STANDARDS	<input type="checkbox"/> LABOR CONTRACT RELATIONS	<input type="checkbox"/> COMMERCIAL DOG BATES, ETC.	<input type="checkbox"/> CONSTITUTIONALITY OF STATE STATUTES
CONDEMNATION	FRAUD	<input type="checkbox"/> PASSPORT REVIEW	<input type="checkbox"/> LABOR MGMT. RELATIONS	<input type="checkbox"/> DEPORTATION	<input type="checkbox"/> NARA, TITLE 7
FORECLOSURE	OTHER PERSONAL PROPERTY DAMAGE	<input type="checkbox"/> MARCAS CORPUS	<input type="checkbox"/> LABOR MGMT. RELATIONS	<input type="checkbox"/> SELECTIVE SERVICE	<input type="checkbox"/> OTHER STATUTORY ACTIONS
RENTAL OF & EJECTMENT		<input type="checkbox"/> MANDAMUS	<input type="checkbox"/> LABOR MGMT. RELATIONS	<input type="checkbox"/> SECURITIES EXCHANGE ACTS	
RIGHTS TO LAND		<input type="checkbox"/> CIVIL RIGHTS	<input type="checkbox"/> RAILWAY LABOR ACT	<input type="checkbox"/> SOCIAL SECURITY	
ALL OTHER REAL PROPERTY			<input type="checkbox"/> OTHER LABOR LITIGATION	<input type="checkbox"/> TAX BURTS	

METHOD OF DISTRICT COURT DISPOSITION

Judgment before trial:	Prisoner petition:
Summary Judgment <input type="checkbox"/>	Granted <input type="checkbox"/>
Dismissal <input checked="" type="checkbox"/>	Denied <input checked="" type="checkbox"/>
Other <input type="checkbox"/>	
Judgment during or after trial:	Injunction:
Court trial <input type="checkbox"/>	Granted <input type="checkbox"/>
Jury trial <input type="checkbox"/>	Denied <input type="checkbox"/>
During trial <input type="checkbox"/>	
Appeal from order:	Damages:
Preliminary injunction <input type="checkbox"/>	Granted <input type="checkbox"/>
Class action <input type="checkbox"/>	Amount <input type="checkbox"/>
Amend answer <input type="checkbox"/>	\$ Denied <input type="checkbox"/>
Enforce settlement <input type="checkbox"/>	Other relief (specify) <input type="checkbox"/>
Counsel fees <input type="checkbox"/>	
Stay <input type="checkbox"/>	
Other <input type="checkbox"/>	

PROXIMATE SIZE OF RECORD ► Pleadings NUMBER OF EXHIBITS ► 0

HAS TRANSCRIPT BEEN MADE ? YES ☐ NO ☒

BRIEF DESCRIPTION OF NATURE OF CASE AND RESULT BELOW:

This case concerns itself with sex discrimination in professional employment at Syracuse University. The matter was dismissed for lack of jurisdiction under both Title VII and the Fourteenth Amendment and 42 U.S.C. § 1983 in conjunction with 28 U.S.C. § 1343. In addition the class action aspects of the case were dismissed. The appeal addresses itself to the jurisdictional issue, primarily, as well as the appropriateness of the class action designation of the case.

ISSUES PROPOSED TO BE RAISED ON APPEAL:

In addition, this appeal addresses itself to the propriety of the named Defendants as defendants and the ability of the Plaintiff to challenge across the board discrimination, because of sex, in the employment policies and practices of the Defendant University as such relates to professional positions (faculty & administrative positions).

Attorney for the Appellant, hereby certify that satisfactory arrangements have been made with the court reporter for payment of the cost of the transcript (FRAP 10 (b)). (Check one box)

☒ (1) have already ordered the transcript to be prepared OR

☐ (2) will order it to be prepared at the time required by the Staff Counsel in the implementation of the Civil Appeals Management Plan.

COUNSEL'S SIGNATURE

James I. Meyerson

DATE

7/18/74

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

TRANSCRIPT INFORMATION
CIVIL APPEAL

To be completed by counsel for appellant in civil appeal from district court within ten days after filing notice of appeal.

POSITION OF COPIES: (1) to Clerk of the Court of Appeals; (2) and (3) to Court Reporter; (4) Counsel for Appelling; (5) retained by Counsel for Appellant.

THIS SECTION TO BE COMPLETED BY COUNSEL FOR APPELLANT

TITLE Selene Weise VS Syracuse University, etc., et. al.	DISTRICT	DOCKET NUMBER
	Northern District of New York	73 Civ 420
	JUDGE	APPELLANT
	James T. Foley	Selene Weise
	COURT REPORTER	COUNSEL FOR APPELLANT
		James I. Meyerson 1790 Broadway 10th Floor New York, New York 10019

TRANSCRIPT ORDER

Must be completed

DESCRIPTION OF PROCEEDINGS FOR WHICH TRANSCRIPT IS REQUIRED (INCLUDE DATES)

NO TRANSCRIPT

A Motion to Dismiss was brought on in this action; and the matter was dismissed, after argument, but without an evidentiary hearing.

I am ordering a transcript.

I am not ordering a transcript.

Reason:

☐ Daily copy is available.

☒ Other. Attach explanation.

METHOD OF PAYMENT ☐ FUNDS ☐ CJA VOUCHER (CJA 20)

PREPARE TRANSCRIPT OF PRE-TRIAL PROCEEDINGS

PREPARE TRANSCRIPT OF TRIAL

PREPARE TRANSCRIPT OF OTHER

POST-TRIAL PROCEEDINGS

PREPARE (Other: Specify)

DELIVER TRANSCRIPT TO: (NAME, ADDRESS, TELEPHONE)

I certify that I have made satisfactory arrangements with the court reporter for payment of the cost of the transcript. (F.R.A.P. 10(b)). I understand that unless I have already ordered the transcript, I shall order its preparation at the time required by the Civil Appeals Management Plan, F.R.A.P. and the local rules.

COUNSEL'S SIGNATURE
JAMES I. MEYERSON

DATE
7/18/74

COURT REPORTER ACKNOWLEDGEMENT

To be completed by court reporter. Return one copy to Clerk, U.S. Court of Appeals.

DATE ORDER RECEIVED

ESTIMATED COMPLETION DATE

ESTIMATED NUMBER OF PAGES

SIGNATURE OF COURT REPORTER

DATE

-4-

"A"

Re:

NOTICE OF RIGHT TO Sue
WITHIN 90 DAYS

In Case No. TBU3 0097 before the Equal Employment Opportunity
Commission, United States Government.

Selene Harding Curd Weiso

v.

Syracuse University

YOU ARE HEREBY NOTIFIED THAT:

WHEREAS, this Commission has not filed a civil action with
respect to your charge as provided by section 706(f)(1) of
Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.
2000a et seq; and,

WHEREAS, this Commission has not entered into a conciliation
agreement to which you are a party;

THEREFORE, pursuant to §706(f) of Title VII, you may within
90 days of your receipt of this Notice, institute a civil action
in the United States District Court having jurisdiction over your
case.

Should you decide to commence judicial action, you must do so
within 90 days of the receipt of this letter or you will lose
your right to sue under Title VII.

If you are not represented by counsel and you are unable to obtain
counsel, the Court may in its discretion, appoint an attorney to
represent you.

Should you have any questions concerning your legal rights or have
any difficulty filing your case in court, please contact Mr.
Donald Copeland of our Regional Office at (212) 264-3644.

Lloyd G. Bell
LLOYD G. BELL, District Director

DATE

6/28/73

ONLY COPY AVAILABLE

26742 JUN 13 74

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SELENE WEISE, on behalf of herself and on
behalf of all persons similarly situated,

Plaintiffs,

-vs-

73-CV-420

SYRACUSE UNIVERSITY, an educational corporate
entity, DR. MELVIN EGGERS, Chancellor,
DR. CLIFFORD L. WINTERS, Vice-Chancellor,
DR. RAY IRWIN, DR. BEULAH ROHRlich, and
DR. PAUL RIED,

Defendants.

APPEARANCES:

OF COUNSEL:

JAMES I. MEYERSON
Attorney for Plaintiff
1790 Broadway - 10th Floor
New York, New York 10019

BOND, SCHOENECK & KING
Attorneys for Defendants
One Lincoln Center
Syracuse, New York 13202

WILLIAM F. FITZPATRICK
DAVID N. SEXTON

JAMES T. FOLEY, D. J.

MEMORANDUM-DECISION and ORDER

This case must be dealt with in terms of my recent reasoning and decision in Mortenson v. Syracuse University, N.D. N.Y., 73-CV-545, May 13, 1974 (unreported) because the similarity is remarkable, even to the point of raising the same legal issues, the parties being represented by the same counsel, and the same allegations being made against the same principal defendant, Syracuse University. In Mortenson the defendants' motion to dismiss the complaint was granted for lack of jurisdiction or for failure to state a claim upon which relief can be granted and the same result must follow for this case. For purposes of judicial efficiency and especially because legal counsel in both cases is the same, only the important or distinguishing issues need be discussed. Most of the relevant case law to the issues has been cited and analyzed in Mortenson and need not be repeated here. The Mortenson reasoning pertinent here is incorporated by reference.

Plaintiff applied for the faculty position of "Lecturer" in the Department of Public Address at Syracuse University in 1969. According to her complaint, a panel of three faculty members of the Department of Public Address, one of whom was Dr. Beulah Rohrlach, decided not to hire plaintiff. A decision was made to hire another person who was a male. In January 1970, plaintiff requested the position of "graduate teaching assistant" (a non-faculty position). This application was made to Dr. Beulah Rohrlach and was granted commencing in September 1970. In December 1970, plaintiff was notified that this position would terminate in June 1971 or at the end of that particular school year.

Plaintiff filed charges against Syracuse University et al. regarding the refusal to hire her for "Lecturer" with the New York State Division of Human Rights on June 24, 1970, and later added the termination of her graduate teaching assistantship to this charge. She also attempted redress from internal agencies of Syracuse University, but the result of these efforts is not clear in this submission. Charges were filed with the Equal Employment Opportunities Commission (EEOC) alleging discrimination on the basis of sex on May 8, 1972, and on June 28, 1973 a Notice of Right to Sue letter was issued by the Commission upon the request of plaintiff pursuant to 42 U.S.C. § 2000e-5(f)(1). Plaintiff then commenced this action within 90 days after this issuance by filing her complaint on September 17, 1973. A motion was filed by plaintiff for leave to proceed in forma pauperis but this was denied by Judge Port, and appeal to the Court of Appeals, Second Circuit, was made and denied by decision dated March 21, 1974. Judge Port, being a member of the Board of Visitors of the Syracuse College of Law, following an opinion of the Advisory Committee on Judicial Activities of the Judicial Conference of the United States, by letter to Clerk Joseph R. Scully, dated January 2, 1974, recused himself from further proceedings in the action.

Defendants have submitted two motions. The first, in a single

motion, seeks to dismiss the complaint for lack of jurisdiction over the subject matter and person; for failure to state a claim upon which relief can be granted; and further, to strike certain allegations in the complaint and for determination that the action should not proceed as a class action. The other motion, seeking to stay discovery pending a decision on the other, is mooted in light of the decision and order made herein granting the dismissal of the action.

The plaintiff here, as in Mortenson, alleges jurisdiction under 28 U.S.C. § 1343, 42 U.S.C. §§ 1983 and 1985, Executive Orders 11246 (1965), 3 C.F.R. 1964-1965 Comp., p. 339, as amended by Executive Order 11275 (1967), 3 C.F.R. 1966-1970 Comp., p. 684, and 42 U.S.C. § 2000e et seq., seeking declaratory and injunctive relief as well as money damages.

Little can be added to my discussion of these statutes other than as made in Mortenson. Nothing alleged by the complaint or voluminous affidavits and memoranda of law support the conclusion that Syracuse University's decisions not to hire or to fire plaintiff in a faculty or other position were in any way controlled or even affected by the State of New York. In my judgment, there is no state action presented by this case and thus no jurisdiction pursuant to either 42 U.S.C. §§ 1983 or 1985. The factors that are asserted to constitute state involvement in the management of the educational affairs of Syracuse University such as state economic aid, student scholarships from the state, state laws on education, incorporation, taxation, etc., and other factors similar in that they would apply to all private colleges in the state, simply do not add up to state action. Plaintiff concedes that these factors would apply to every private college (see Plaintiff's Affidavit of June 3, 1974 at p. 3) and thus it follows that the distinction between private and public colleges would become meaningless when considered for the determination of jurisdiction under §§ 1983 and 1985. Such a contention as

I emphasized in Mortenson has been rejected by the Court of Appeals, Second Circuit. Powe v. Miles, 407 F. 2d 73, 80 (2d Cir., 1968); also Grafton v. Brooklyn Law School, 478 F. 2d 1137 (2d Cir. 1973).

The Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) does not provide, in my judgment, any jurisdiction for a suit based on the allegations made in the instant complaint. There is no question that prior to March 24, 1972, educational institutions simply were not covered by the Act but were specifically exempted. From my review, the latest arguable act by Syracuse University and the other defendants that is alleged to be discriminatory on the basis of sex is June 1971 which is the effective date of plaintiff's termination as a graduate teaching assistant. Action after that date, including those appeals to university organs, the New York Division of Human Rights, and the E.E.O.C. were initiated and performed solely by plaintiff to rectify these alleged wrongs; such course of conduct by the plaintiff certainly cannot be considered part of the alleged discrimination by defendants. See Hutchings v. U.S. Industries, Inc., 309 F. Supp. 691, 693 (E.D. Texas 1969), rev'd and remanded on other grounds, 428 F. 2d 303 (5th Cir. 1970).

Lastly, plaintiff argues vigorously that she is a proper representative of a class of women who have been discriminated against by Syracuse University and should thus be allowed to proceed with this action under the Civil Rights Act of 1964 to redress those complaints of class members that are fresh and subsequent to March 24, 1972. However, it seems to me this position is impossible to maintain. There was no statute as it later was enacted that conferred by its terms the right of plaintiff to be free from discrimination by an educational institution prior to March 24, 1972. She has not alleged that any discriminatory act involving Syracuse University as far as she was concerned occurred after that date. Since she thus has no viable federal claim of her own, it would be impossible for her to even be a member of such a class of plaintiffs

ch less represent that class qualified to sue under this Act.
Hecht v. Cooperative for Amer. Relief Everywhere, Inc., 351 F. Supp.
305, 310 (S.D.N.Y. 1972); compare, Kohn v. Royall, Koegel & Wells,
59 F.R.D. 515 (S.D.N.Y. 1973), appeal dismissed, Slip Op. 3243
(2d Cir. 5/3/74).

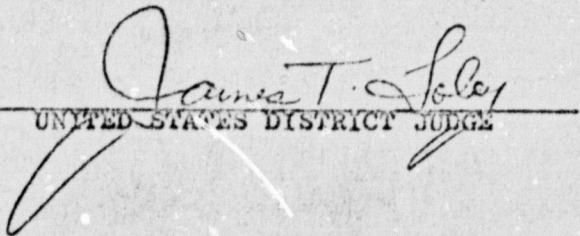
There are other problems with this suit among which is the
untimeliness of the filing of charges with the E.E.O.C. However,
in light of the previous reasoning and discussion of this issue in
Mortenson, there is no need to discuss it here, except to note the
incorporation of that reasoning by reference. The Clerk of this
Court is directed to place a copy of the Mortenson decision in the
file of this action.

In conclusion, the defendants' motion to dismiss is granted
for lack of jurisdiction and for failure to state a claim upon
which relief can be granted. The other requests in that motion and
in the separate motion of the defendants are denied and dismissed as
moot. The complaint is dismissed.

It is so Ordered.

Dated: June 10, 1974

Albany, New York


UNITED STATES DISTRICT JUDGE

IN THE
UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF NEW YORK

CIVIL NO. 73CV 420

SELENE WEISE, on behalf of herself and
on behalf of all persons similarly
situated,

PLAINTIFFS

-VS-

COMPLAINT
CLASS ACTION

SYRACUSE UNIVERSITY, an educational corporate
entity, DR. MELVIN EGGERS, Chancellor,
DR. CLIFFORD L. WINTERS, Vice-Chancellor,
DR. RAY IRWIN, DR. BEULAH ROHRICH, and
DR. PAUL RIED,

DEFENDANTS

INTRODUCTORY STATEMENT

1. This is an action brought to redress the maintenance and perpetuation of a pattern and practice of discrimination against women, solely because of their sex, in the hiring of women to and the promotion of women in teaching positions on the faculty at Syracuse University, in contravention of the Fourteenth Amendment to the United States Constitution and the various acts of Congress which prohibit discrimination based on sex. The Plaintiff, a woman, prosecutes this action on behalf of herself and all other persons similarly situated and in this regard seeks declaratory, injunctive and monetary relief.

JURISDICTIONAL STATEMENT

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1343 (1), (2), (3) and (4) in conjunction with 42 U.S.C. §§2000e et. seq., as amended, (Title VII of the Civil Rights Act of 1964) 42 U.S.C. §§1983 and 1985, (the Civil Rights Act of 1871) the Fourteenth Amendment to the United States Constitution, and Executive Order 11246 (signed September 24, 1965, effective on October 24, 1965, 3 C.F.R. 339) as amended by Executive Order 11375 (signed October 13, 1967, effective in part on November 12, 1967 and in part on October 14, 1968), this being an action to redress the deprivation of the constitutional and civil rights of individuals because of discrimination based on sex. Jurisdiction is also invoked in conjunction with the Declaratory Judgment Act (28 U.S.C. §§2201 and 2202), this being an action for declaratory as well as injunctive and monetary relief.

PARTIES :

3. Plaintiff, SELENE WEISE, is a female citizen of the United States presently living in Syracuse, New York; she has a M.A. in speech, and has completed all of her work toward a Ph.D. degree, save for her dissertation. She has a graduate record examination score of the 98th percentile, a cumulative grade point average of 3.85 on a 4 point scale, and 2½ years of teaching experience in the field of speech. She was and is a highly qualified individual for the faculty position of Lecturer in the Department of Public Address at Syracuse University with excellent recommendations on both her previous teaching and professional experience; and but for the fact that she is a woman, she would have otherwise been hired for said position.

4. Plaintiff Weise brings this action on behalf of herself and on behalf of all other women who, because of their sex, and solely because of their sex, have been, are being, and

will continue to be denied access to and promotions in faculty positions at Syracuse University in contravention of the United States Constitution and the various acts of Congress which prohibit discrimination based on sex.

5. The necessary requisites of a proper class action are present, to wit: Plaintiff brings this action as a class action pursuant to Rule 23 (a) and (b) of the Federal Rules of Civil Procedure on their own behalf and on behalf of all persons similarly situated. As to the class as set forth herein (1) they are so numerous that joinder of all its members is impracticable; (2) there are questions of law and fact common to the class and its members; (3) the claims of the Plaintiff are typical of the claims of class and its members; (4) the Plaintiff will fairly and adequately protect the interest of the class and its members; (5) the Defendants acted or refused to act on grounds generally applicable to the class and its members, thus making appropriate final injunctive relief with respect to the class as a whole; (6) questions of law and fact common to the members of the class predominate over any questions affecting only the individual members, and a class action is superior to other available methods for the fair and efficient adjudication of this suit.

6. Defendant, SYRACUSE UNIVERSITY, is a private institution of higher education which is subdivided into various academic colleges and departments therein. While it is private in nature, it receives significant sums of money to carry out its programs from the State of New York, and its departments and subdivisions, and the government of the United States; and it receives significant sums of money from the afore-mentioned governmental entities and their departments and subdivisions for services provided by the Defendant University to them. A substantial sum of such monies goes toward providing tuition payments of students attend-

ing said University, its colleges and departments; and the salaries or parts thereof, of faculty members teaching at said University, its colleges and departments.

7. Defendant, DR. MELVIN EGGERS, is the Chancellor of Syracuse University and is the Chief Administrative Officer thereof. Among other things, he is responsible for carrying out the policies of the University as they are formulated by its Board of Trustees, including those policies related to the hiring, firing and promotion of faculty personnel. In so doing he has the ultimate responsibility to assure that the hiring, firing and promotion of faculty personnel are done on a racially and sexually non-discriminatory basis; and, in fact, he has the ultimate responsibility to assure that the University's Affirmative Action Program and its goals, designed to increase the number of racial minority and female persons on the faculty of the University, are being implemented and met.

8. Defendant, DR. CLIFFORD WINTERS, is Vice-Chancellor of Syracuse University and Chairman of the Affirmative Action Committee of said University. Among other things, he is responsible for assisting the Chancellor of Syracuse University in carrying out the policies of the University as they are formulated by its Board of Trustees, and particularly those policies related to the University's Affirmative Action Program and goals, which Program and goals are designed to increase the number of racial minority and female persons on the faculty of the University.

9. Defendant, DR. RAY IRWIN, is Chairman of the Department of Speech Communication in the College of Visual and Performing Arts, Syracuse University, and is former Dean of the School of Speech and Dramatic Arts (now no longer in existence having been split up among several other schools and colleges). In those capacities he was and is responsible for assisting the Chancellor and Vice-Chancellor of Syracuse University and other

subordinate officials thereof in the implementation of the University's Affirmative Action Program and the attainment of its goals insofar as the particular Department of Speech Communication and the College of Visual and Performing Arts, Syracuse University (and their predecessor entities) are concerned.

10. Defendant, DR. BEULAH ROHRLICH, is the former Chairman of the Department of Public Address in the School of Speech and Dramatic Arts, Syracuse University. She is now an Assistant Professor in the Department of Speech Communication, College of Visual and Performing Arts, Syracuse University. As such, she was responsible for assisting the Chancellor and Vice-Chancellor of Syracuse University and other subordinate officials thereof in the implementation of the University's Affirmative Action Program and the attainment of its goals of increased minority and female representation on the University's faculty.

11. Defendant, DR. PAUL RIED, is the former Chairman of the Department of Speech Education in the School of Speech and Dramatic Arts, Syracuse University, and is presently the head of the Areas of Public Address and Speech Education in the Department of Speech Communication, College of Visual and Performing Arts, Syracuse University. As such, he was and is responsible for assisting the Chancellor and Vice-Chancellor of Syracuse University and other subordinate officials thereof in the implementation of the University's Affirmative Action Program and the attainment of its goals of increased minority and female representation on the University's faculty.

ALLEGATIONS

12. In 1969, Plaintiff applied for the faculty position of Lecturer in the Department of Public Address, Syracuse University.

13. On September 3, 1969, a meeting was held at Defendant Irwin's house between himself, Defendant Rohrllich and Mr. Paul McKee, Lecturer in the Department of Public Address, Syracuse University; and it was decided thereat that Plaintiff Weise should not be hired for the post of Lecturer in the Department of Public Address.

14. Explicitly excluded from the meeting was the then Chairman, Dr. Charles Smith, who had advocated the hiring of the Plaintiff to the faculty of said University as a Lecturer in the Department of Public Address, and Mr. Ronald Burke, an instructor in said Department who, together, comprised one-half ($\frac{1}{2}$) of the four (4) member faculty of the Department.

15. As a consequence of the afore-described meeting, Dr. Smith immediately resigned his position as Chairman of the Department of Public Address based on his belief that, since he was not allowed to hire the most professionally qualified candidate for the faculty position, he could not chair the Department appropriately. Defendant Rohrllich was then appointed Chairman of said Department in place of Dr. Smith.

16. Thereafter, the afore-mentioned faculty position of Lecturer in the Department of Public Address was given to Mr. Anthony Cusmano, a male and first-year master's candidate in speech, with neither a B.A. nor a M.A. degree, but a law degree from New York Law School, a school not recognized at that time by the American Association of Law Schools. Mr. Cusmano had not passed the New York Bar Examination nor had he had any previous teaching experience or academic work in the field of speech. Mr. Cusmano was not voted upon by the entire Department, as is the customary practice when filling a faculty position in a particular school and/or department in the University community.

16a. Because of the unorthodox manner of decision-making, Plaintiff Weise was deprived of a full departmental decision, which is customary, and the opportunity for an interview to present her credentials and defend her candidacy, both of which are normally accorded in the application process and procedure.

17. Plaintiff Weise, a woman, was not hired for the position of Lecturer in the Department of Public Address at Defendant Syracuse University, notwithstanding that her qualifications were vastly superior to those of the male individual who was hired to fill that position.

18. The Plaintiff's qualifications, at that time, were a B.A. and M.A. in speech, a cumulative grade-point average of 3.85 on a 4.00 point scale, a graduate record examination score of the 98th percentile, 1 year of teaching speech at Indiana University, excellent recommendations on both her teaching previous professional experience, acceptance into the Humanities Doctoral program and an accumulation of 57 credit hours toward her doctoral degree.

19. Plaintiff Weise, a woman, was not hired for the position of Lecturer in the Department of Public Address at the Defendant Syracuse University, notwithstanding the existence of Executive Order 11246, as amended by Executive Order 11375, which required the Defendant University, as a government contractor, to undertake affirmative action to ensure that applicants are employed and treated equally, without regard to race, color, religion, or sex; and to undertake affirmative action to increase its minority and female faculty personnel. Upon information and belief, the Defendant University is subject to the afore-stated Executive Orders inasmuch as the federal government funnels substantial monies into the Defendant University for services provided to the federal government by the University; and the University is required to comply with the provisions contained therein as a condition to the continued receipt of such monies.

20. Plaintiff Weise, a woman, was not hired for the position of Lecturer in the Department of Public Address at the Defendant University notwithstanding the existence of Executive Order 11246, as amended by Executive Order 11375. In that regard the Defendant University has adopted and submitted to the federal government an Affirmative Action Program designed to increase the number of women and minority persons on its faculty. Said Affirmative Action Program has not been implemented in good faith nor its goals even remotely attained; nor has it been accepted by the federal government although the University ostensibly operates under it. Said Affirmative Action Program is merely a paper document drawn up to satisfy the conditions required of the Defendant University to receive federal monies and nothing more. Illustrative of this point is that, while there has been a recent general staff reduction in the Defendant University of, upon information and belief, 15.4 percent, nineteen (19) percent of the female staff was reduced. Furthermore, the absolute numbers of women declined in every division of the Defendant University, even those classifications of employees that enjoyed an appreciating work-force.

21. Further illustration of the University's sexually discriminatory policies is that, upon information and belief, in the three classifications for which comparative rank exists, i.e., faculty, clerical/technical and hourly women are clustered at the bottom of each class. In 1972, 74.8 percent of all women employees were in the clerical/technical and hourly wage categories while only 40.8 percent of all male employees were in those categories. In a declining work-force women are in the most menial jobs, at the bottom of the wage-scale and they are sustaining the bulk of all terminations. In that regard, the rate of reduction of the male faculty, upon information and belief, is only 4.3 percent-less than one-half the rate of decline for women.

22. Plaintiff was advised thereafter by Dr. Smith that the decision not to hire her was based on her place of residence. The Plaintiff and her grown son, who was a freshman at the University at that time, resided during the period that she was earning her master's degree at Dr. Smith's house. During that same period of time, Mr. David Samson, also a graduate student in Speech resided in Dr. Smith's house. At most times as many as five or six people were in the house, including the Plaintiff's other two sons, her husband, her mother, and Dr. Smith's three grown children, as well as assorted other graduate students. Mr. Cornell B. Blanding, currently employed in the Department of Speech Communication as an instructor, shared an apartment with Dr. Smith and traveled widely abroad with him during the period of time that he was a graduate student; and it was during the period that Dr. Smith was chairman that Mr. Blanding was hired as an instructor. No questions have ever been raised about the living arrangements of male applicants for faculty positions, nor has anyone reprimanded Dr. Smith.

22a. While Plaintiff Weise was advised of the aforementioned reason for her rejection, she submits that such reason is really only a camouflage for and a manifestation of the fact that she is a woman; and that that is the reason for her rejection by the Defendant parties.

23. The Defendants employ different standards in evaluating the applications of women and men for positions on the faculty at Syracuse University which standards are intended to and have the effect of foreclosing women from securing positions and promotions on the faculty of said University in violation of Title VII of the Civil Rights Act of 1964 as amended (42 U.S.C. §§2000(e) et. seq.) and the Civil Rights Act of 1871 (41 U.S.C. §1983), the Fourteenth Amendment to the United States Constitution and Executive Order 11246, as amended by Executive Order 11375; and which

were intended to and had the effect of foreclosing the named Plaintiff herein from securing the position of Lecturer on the faculty at the Defendant University in violation of the afore-stated constitutional and statutory provisions.

24. The Defendants' standards of evaluation of applications for the faculty at Syracuse University have the disparate and discriminatory effect of eliminating women applicants from consideration and foreclosing them from securing positions and promotions on the faculty at said University in violation of Title VII of the Civil Rights of 1964 as amended (42 U.S.C. §§2000(e) et. seq.) and the Civil Rights Act of 1871 (42 U.S.C. §1983), the Fourteenth Amendment to the United States Constitution and Executive Order 11246, as amended by Executive Order 11375; and have had such discriminatory effect on the named Plaintiff herein in violation of the afore-stated constitutional and statutory provisions.

25. In January, 1970, Plaintiff requested that the Defendant Rohrlach put her folder into consideration for a Teaching Assistantship for the year 1970-1971. This was done and in a departmental meeting on March 19, 1970, it was unanimously voted to give the Plaintiff an assistantship. Plaintiff accepted the post by letter and started her duties in September, 1970.

26. Thereafter, on June 24, 1970, Plaintiff filed charges with the New York State Division of Human Rights relative to the Defendant University's refusal to hire her for the position of Lecturer, as heretofore described.

27. After investigation, a finding of Probable Cause was handed down and the case went to public hearing on December 7, 1970. On the 14th of December, 1970, Plaintiff received a letter from Defendant Rohrlach terminating her appointment for the following year. As a result of the termination letter, Plaintiff filed two charges of retaliation against certain of the above named individuals. One charged them with terminating Plaintiff in

retaliation for having filed the first charge. The second charged them with planting an individual in Plaintiff's class, a young woman, Ms. Wendy Harris, to evaluate and compare Plaintiff to Defendant Rohrllich. Probable Cause was found in these two charges, and they went to public hearing and were heard at the end of the hearing on the main charge. In the meantime, the Department Chairman, Dr. Rohrllich, had taken one of the two sections of the graduate level course Plaintiff had been teaching and had given it to Wendy Harris, the same young woman who had been sitting in on the Plaintiff's class and who, at that time, was a first year master's candidate.

28. The Plaintiff also filed charges with the Equal Employment Opportunity Commission alleging that she had been denied a position on the Defendant University faculty solely because of her sex; said EEOC deferred its investigation to the state body and thereafter on June 28, 1973, issued a "Notice of Right to Sue Within 90 Days" letter to the Plaintiff.

29. The Defendant University has a policy which effectively forecloses women from securing teaching positions and promotions on its faculty which are used to prepare individuals for doctorate degrees.

30. In that regard, in the spring of 1971, Mr. Paul McKee upon the completion of his Ph.D., left his post as Lecturer in the Department of Public Address at the Defendant University.

31. Upon information and belief the Defendant University and the individually named Defendants were expected to make every effort to fill the vacancy with a woman in accordance with their adopted Affirmative Action Program.

32. However, the Defendants changed the classification of the vacant position from that of Lecturer to Assistant Professor, a post which required, as all academic professorial posts in universities do require, a Doctor of Philosophy Degree.

33. By their actions the Defendants eliminated the possibility of having to fill one of the training posts with a woman, thereby effectively foreclosing women from access to faculty positions at the Defendant University; which are preparatory to positions of attaining doctoral degrees, and effectively and ultimately foreclosing women from professorial positions on the faculty of the Defendant University for which doctoral degrees are a pre-requisite.

34. The percentage of Ph.D.'s awarded to women in the academic field of speech, in the United States, is 14%, a drop from the 53% who are awarded Master's degrees in speech.

35. As a consequence of the Plaintiff's inability to secure and maintain a teaching position on the faculty of Syracuse University, she left her residence in Syracuse, New York; went to Washington, D.C. and obtained a part-time job as an aide to the late William F. Ryan, United States Representative from the 20th Congressional District, New York City, while working part-time on her dissertation.

36. In August, 1972, Plaintiff returned to Syracuse, New York and wrote a letter to August Freundlich, Dean of the College of Visual and Performing Arts (comprised of, among others, four departments of the former School of Speech and Dramatic Arts). The Plaintiff advised Dean Freundlich that she had returned to Syracuse and was ready, willing and able to assume any teaching position on the faculty of his college at the Defendant University. Dean Freundlich indicated to the Plaintiff that he would keep the Plaintiff in mind when considering appointments to the faculty.

37. On January 28, 1973, the Plaintiff wrote to Doctor Ray Irwin and advised him that she would still be a student at the University in 1973-74, working toward completion of her Ph.D. requirements. Plaintiff advised Doctor Irwin, further, that she desired to be considered for any teaching position on the faculty,

including a teaching assistantship, and that she wanted her application to note the same and be filed with all of the other application folders being considered as that time.

38. A teaching assistantship, while not a regular full-time faculty position, is an apprenticeship training position which is a valuable pre-requisite for obtaining the former.

39. Plaintiff received no formal acknowledgement of her request to Doctor Irwin, notwithstanding the formality of her request for consideration.

40. Upon information and belief, the Plaintiff's application folder was not considered for any faculty position in said College at Defendant University notwithstanding her substantial qualification for such position.

41. Thereafter, Plaintiff made an appointment to see Doctor Irwin and thereat asked him if he had received the aforementioned letter in which she had requested that he consider her application folder for any position on the faculty.

42. Doctor Irwin indicated that he had received the same; but when the Plaintiff asked him if she had been considered for a position on the faculty he indicated he had nothing more to say to the Plaintiff on that or any other subject. He did conclude that he had shown her letter to Doctor Paul Ried.

43. Thereafter, Plaintiff sought out Doctor Ried and indicated to him what Doctor Irwin had stated, as heretofore described.

44. At that time, Plaintiff was advised by Doctor Ried that he and Doctor Irwin had decided not to grant any teaching assistantships to any doctoral candidates; and first-year master's candidates were being given priority.

45. Upon information and belief, Plaintiff is the only person affected by the afore-mentioned policy against doctoral students holding teaching assistantships.

46. In that regard, at least two men hired at the time the Plaintiff was terminated from her teaching assistantship, were doctoral candidates; and, at the time the Plaintiff was denied consideration for a teaching assistantship because of her doctoral candidacy as heretofore described, one of those men had his teaching assistantship renewed, notwithstanding his doctoral candidacy.

47. Upon information and belief, the master's candidates priority was not a departmental policy decision but one arrived at by Doctors Irwin and Ried.

48. As a consequence of the aforementioned, Plaintiff filed another complaint with the New York State Division of Human Rights; probable cause was found.

49. The Plaintiff was denied consideration for teaching positions at the Defendant University in 1973 because of a non-job related priority which was arbitrarily set and which is arbitrary in substance, to wit: a priority to master's candidates rather than doctoral candidates.

50. The Plaintiff was arbitrarily denied a teaching position in the College of Visual and Performing Arts at Defendant University in 1973, as described heretofore, because she is a woman; and the intent and effect of imposing the afore-stated priority was to deny to the Plaintiff a position on the faculty at the Defendant University, solely because she is a woman and in retaliation for the fact that she had filed state administrative actions against the Defendant University and individuals employed thereby because of alleged sex discrimination in employment against women, by said University.

51. The Defendant University, while ostensibly a private institution of higher learning, receives, upon information and belief, substantial monies and other benefits from the federal and state government so as to place it in such an inter-relationship

with the state and federal government to make it a quasi-public institution. Upon information and belief, without those monies the Defendant University would be unable to operate efficiently and continuously and with all of its programs, activities and services, as a "private" institution. In that regard, the Defendant University receives substantial sums of "Bundy money" from the State of New York for each degree it awards, with the sum of money being ascertained by the nature of the degree.

52. Upon information and belief, as one of the conditions to receiving the substantial federal funds which it is receiving for its programs, services, and activities; the Defendant University drew up an Affirmative Action Program to increase, among other things, its minority and female faculty representation.

53. Upon information and belief, the State of New York through the New York State Board of Regents and the Office of the State Commissioner of Education, regulate and supervise public and private education throughout the State, including institutions of higher education and specifically that of the Defendant University. Among other things, the State certifies private schools and sets appropriate minimum standards for their operation. As such the State has a substantial inter-relationship with private educational institutions in the State, such that those institutions would be unable to operate within the State of New York without that inter-relationship.

54. Plaintiff submits that the actions taken against her, as heretofore described, in refusing to hire her to the faculty position of Lecturer in the Department of Public Address at the Defendant University or to any faculty position in the College of Visual and Performing Arts at the Defendant University and the acts taken and otherwise related thereto, were taken against her by the Defendant parties solely because of her sex; and were arbitrary,

capricious and sexually discriminatory and without objective and rational reason; accordingly, the Defendant parties did discriminate against the Plaintiff in violation of Title VII of the Civil Rights Act of 1964 as amended (42 U.S.C. §§2000(e) et. seq.), and 42 U.S.C. §1983 (the Civil Rights Act of 1871), the Fourteenth Amendment to the United States Constitution, and Executive Order 11246, as amended by Executive Order 11375.

55. Plaintiff submits that the actions taken against her, as heretofore described, in refusing to hire her to the faculty position of Lecturer in the Department of Public Address at the Defendant University or to any faculty position in the College of Visual and Performing Arts at the Defendant University, and the acts taken and otherwise related thereto, were effected by the parties collectively and in concert to deprive the Plaintiff of her statutory, civil and constitution rights, because she is a woman in violation of Title VII of the 1964 Civil Rights Act as amended (42 U.S.C. §§2000(e) et. seq.) the Civil Rights Act of 1871 (42 U.S.C. §§ 1983 and 1985), the Fourteenth Amendment to the United States Constitution, and Executive Order 11246, as amended by Executive Order 11375.

56. Plaintiff submits that the actions of the Defendant parties, as heretofore described, reinforce an existing pattern of discrimination by the Defendant University against women because of their sex in securing faculty positions and promotions therein with said University in violation of Title VII of the Civil Rights Act of 1964 (42 U.S.C. §§2000(e) et. seq.), and the Civil Rights Act of 1871 (42 U.S.C. §1983), the Fourteenth Amendment to the United States Constitution and Executive Order 11246, as amended by Executive Order 11375; and the Plaintiff further submits that the actions of the Defendant parties, as heretofore described, are counter productive to and subvert the Affirmative Action Program and goals of the Defendant University relative to increasing the number of women and minority persons on the

57. Plaintiff has exhausted all available administrative remedies; and any further administrative recourse is futile and attendant with such delay to make the same unreasonable.

WHEREFORE, Plaintiff respectfully prays that this Court assume jurisdiction of this matter, order a speedy trial on the merits thereof and:

(a) Declare the actions of the Defendants to be in violation of the Plaintiff's rights as guaranteed under Title VII of the Civil Rights Act of 1964 as amended (42 U.S.C. §§2000(e) et. seq.), the Civil Rights Act of 1871 (42 U.S.C. §§1983 and 1985), the Fourteenth Amendment to the United States Constitution and Executive Order 11246, as amended by Executive Order 11375.

(b) Enjoin the Defendants from continuing to take actions which discriminate against women, solely because of their sex, in securing faculty positions and promotions at the Defendant University; and directing them to take positive and complete actions to implement an affirmative program to increase by 25% the number of women in faculty positions at the Defendant University, including but not limited to drawing up and implementing objective evaluation criteria of applicants for faculty positions and promotions.

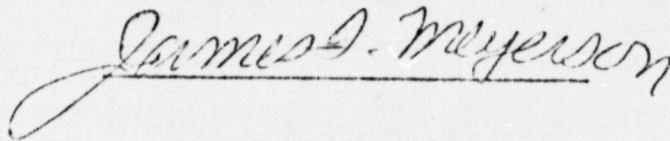
(c) Direct the Defendants to appoint the Plaintiff to the position of Lecturer in the Department of Speech Communication in the College of Visual and Performing Arts, at Syracuse University forthwith, with back pay and all increments and benefits attendant thereto, including but not limited to dependents' benefits and tenure.

(d) Award actual and punitive damages in the amount of \$100,000.00.

(e) Award costs and attorneys fees.

(f) Direct such other and further relief as is necessary for a complete and just resolution of this matter.

Respectfully submitted,



SELENE WEISE
301 Salt Springs Road
Syracuse, New York 13224
For Herself

JAMES I. MEYERSON
1790 Broadway
10th Floor
New York, New York 10019
(212) 245-2100

Attorney for Plaintiff

V E R I F I C A T I O N

SELENE WEISE, the Plaintiff in the foregoing action,
being first duly sworn, deposes and says:

1. I am the Plaintiff in the foregoing action.
2. I have read the foregoing complaint and understand its contents.
3. The facts contained therein are true except for those things stated upon information and belief and as to those things stated on information and belief, I believe the same to be true.
4. I shall represent the class of persons alleged to be adversely affected by the actions and policies complained of herein to the best of my ability and I shall not compromise the members' interests for my interests, the interests being substantially the same.

SELENE WEISE

Sworn to and subscribed before me
this ____ day of _____, 1973.

NOTARY PUBLIC

My Commission Expires: _____

IN THE
UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF NEW YORK

CIVIL NO. 73 CV 420

SELENE WEISE, et al.,

PLAINTIFFS

-vs-

SYRACUSE UNIVERSITY,
etc., et al.,

DEFENDANTS

AFFIDAVIT IN OPPOSITION
TO DEFENDANTS' MOTION
TO DISMISS

A F F I D A V I T

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

Selene Weise, being first duly sworn, deposes and says:

1. I am the individually named Plaintiff in the above-captioned legal action and I purport to represent not only myself but all women who have been, are, or may be victims of the Defendant University's alleged arbitrary, capricious and sexually discriminatory employment policies and practices.

2. This action was commenced on Monday, September 17, 1973, with the filing of the Complaint with the clerk of the United States District Court for the Northern District of New York; and it was served upon the Defendant parties on Thursday, September 27, 1973, by an agent of the Office of the United States Marshal for the Northern District of New York.

3. The action is brought to redress the maintenance and perpetuation of a pattern and practice of discrimination against

women, solely because of their sex, in the hiring of women to and the promotion of women in teaching positions on the faculty at Syracuse University, in contravention of the Fourteenth Amendment to the United States Constitution and the various acts of Congress which prohibit discrimination based on sex, to wit: 42 U.S.C. §§2000e, et. seq., as amended (Title VII of the Civil Rights Act of 1964).

4. I commenced this action pursuant to a "Notice of Right to Sue" letter sent to me on June 28, 1973 and issued by the Equal Employment Opportunity Commission, Buffalo, New York, Lloyd G. Bell, District Director. See: Exhibit "A", attached hereto and made a part hereof.

5. In order to fully understand what substantive allegations in the Complaint fall within this Court's jurisdiction under Title VII of the 1964 Civil Rights Act, as amended (42 U.S.C. §§2000e, et. seq.), as such jurisdiction is conferred upon this Court pursuant to the "Notice of Right to Sue" letter which was issued by the Equal Employment Opportunity on June 28, 1973, it is necessary to set forth herein the rather detailed course of action which I pursued to both the state and federal administrative agencies before the aforementioned "Notice of Right to Sue" letter was issued. An understanding of the detailed course of action which I followed will lead to the inescapable conclusion that all of the allegations which I set forth in the Complaint, herein, as well as all of the Defendant parties named therein, were meant to be and, in fact, are incorporated in and subject to the June 28, 1973 "Notice of Right to Sue" letter from the Equal Employment Opportunity Commission.

6. On September 4, 1969, I was informed by Doctor Charles D. Smith, Chairman of the Department of Public Address, School of Speech and Dramatic Arts, Syracuse University, that I would not be hired for the faculty position of Lecturer, in said Department and School at said University, a position for which I was and still am eminently qualified and for which I had submitted an appropriate application. As a consequence of my failure to receive said faculty appointment and on the very same day that I was notified of the same, Doctor Smith resigned his Chairmanship of the Department of Public Speech.

7. During December, 1969, I contacted, in person, Professor George Alexander, then of the Syracuse University College of Law, who was President of the Syracuse University Chapter of the American Association of University Professors (AAUP). I had an interview in his office. I told him the story of the University's refusal to hire me to the faculty position of Lecturer in the Department of Public Speech, School of Speech and Dramatic Arts; and he indicated that the AAUP would investigate the case.

8. In approximately February, 1970, I was advised by telephone that the Syracuse University Chapter of the AAUP did not find any violation of academic freedom in my case and that, accordingly, it would not take an active role in my case.

9. In the spring of 1970, I took my complaint to the Graduate Student Organization (GSO) at Syracuse University. On May 5, 1970, the Executive Committee of the GSO met in extraordinary session to review my case. See: Exhibit "B" attached hereto and made a part hereof, which sets forth the GSO's findings and the motions it forwarded to the Syracuse University Senate for its consideration.

10. The Syracuse University Senate did not act upon the aforementioned motions until December, 1970.

11. As a consequence of the delay incurred and the inaction I had received with respect to my grievance, I decided to file a complaint with the New York State Division of Human Rights, an agency of the Executive Department of the State of New York.

12. On June 25, 1970, I filed a complaint with the New York State Division of Human Rights. See: Exhibit "C" attached hereto and made a part hereof.

13. The Complaint named Syracuse University, Ray Irwin and Clifford Winters as Respondents. See: Exhibit "C", infra.

14. On September 17, 1970, a Determination after Investigation showed that the Division did have jurisdiction and that there was probable cause to believe that the Respondents had engaged in an unlawful practice. The case was ordered to public hearing. See: Exhibit "D" attached hereto and made part hereof. During the interval between filing and determination, I had requested two delays from Mr. Hoffman, Director, in order to attempt further to conciliate the case. This came to naught.

The public hearing before the State Division of Human Rights began on December 7, 1970.

15. On the 14th of December, 1970, I was terminated from my position as a Teaching Assistant at Syracuse University, effective June 1971.

16. On December 16, 1970, I filed a charge of retaliation with the State Division of Human Rights and against Syracuse University, Doctor Beulah Rohrlach, Doctor Ray Irwin and Clifford L. Winters. See: Exhibit "E" attached hereto and made part hereof.

17. Probable cause was found on this complaint, and it was sent to public hearing. It was heard concurrently with the original charge then still in hearing. See: Exhibit "F" attached hereto and made part hereof.

18. On March 30, 1971, in the course of public hearing on the Retaliation charge, Ms. Adele Graham, an attorney with the State Division of Human Rights, moved to amend the retaliation complaint to include further retaliation. This brought the complaint up to that same day. See: Exhibit "G" attached hereto and made part hereof which is page 1211 of the transcript of the State Division Proceedings.

19. On May 21, 1971, the public hearing in the State Division of Human Rights ended.

20. On December 1, 1971, I filed another complaint charging further retaliation on the matter of medical parking. This was dismissed with a no probable cause ruling on May 16, 1972. See: Exhibits "H" and "I" attached hereto and made part hereof. The Respondents in the aforementioned Complaint were Syracuse University and Melvin A. Eggers.

21. On April 21, 1972, I received an Order from the State Division of Human Rights dismissing my initial Complaint thereto (See: Exhibit "C", infra) and the subsequent Complaint of Retaliation (See: Exhibit "E", infra) and the Retaliation Amendment thereto (See: Exhibit "G", infra). See: Exhibit "J" attached hereto and made part hereof.

22. On May 1, 1972, I filed a Notice of Appeal from the Order of the State Division dismissing the aforementioned. See: Exhibit "K" attached hereto and made part hereof.

23. Between the dates of April 21, 1972 and May 1, 1972, I phoned the Equal Employment Opportunity Commission Office in Washington and talked to Ms. Robbie Romberg. I asked her if I

could file a complaint with the EEOC under the newly enacted amendment, and, if so, whether I could file such a complaint with the EEOC and appeal the state decision simultaneously. She assured me that I could. I also asked ^{her} whether if I could include all of the charges which I had made initially in June, 1970 and subsequent thereto in December, 1970, March, 1971, and December, 1971. She assured me that I could, and should, include everything up to the date on which I spoke to her.

24. As a result of the aforementioned telephone call to Ms. Romberg, in Washington, and a subsequent telephone call to the Regional Office of the EEOC, in New York City, in which I received assurances about the information I had received from Ms. Romberg, I filed a complaint with the Regional Office of the EEOC, in New York City, against Syracuse University and others, including Doctor Ray Irwin, Doctor Beulah Rohrlach and Doctor Clifford Winters. See: Exhibit "L" attached hereto and made part hereof.

25. The Complaint, as pointed out in my cover letter thereto, was meant to consolidate all of the several charges which I made in the New York State Division of Human Rights initially, in June, 1970, and subsequent thereto (all of which are set forth heretofore).

26. On May 12, 1972, I received a letter from the Regional Office of the EEOC, in New York City, acknowledging receipt of my Complaint and cover letter thereto; and assigning the number TNY 1126 to my Complaint. See: Exhibit "M" attached hereto and made part hereof.

27. Thereafter and in response to a request from the Regional Office of the EEOC, in New York City, I forwarded to said office materials supporting my Complaint particularly, and the situation at Syracuse University, generally. See:

Exhibit "N" attached hereto and made part hereof which acknowledges my request to the EEOC Office in New York City for the return of the aforementioned materials.

28. A hearing on my appeal to the Appeal Board of the New York State Division of Human Rights, from the adverse ruling heretofore described, was scheduled for June 22, 1972 and subsequently rescheduled and heard on October 19, 1972. See: Exhibit "O", "P", "Q" attached hereto and made part hereof.

29. On the 26th of February, 1973, I filed another Complaint with the New York State Division of Human Rights, charging both discrimination because of sex and retaliation. See: Exhibit "R" attached hereto and made part hereof.

30. On April 25, 1973, I received a determination on the aforementioned matter of probable cause, and it was sent to public hearing. See: Exhibit "S" attached hereto and made part hereof.

31. On June 1, 1973, after having written to the Appeal Board of the New York State Division of Human Rights and receiving a response thereto (See: Exhibits "T" and "U" attached hereto and made part hereof), I received a letter from the Appeal Board of the New York State Division of Human Rights dismissing my appeal (See: Exhibit "V" attached hereto and made part hereof).

32. Just prior to receiving the aforementioned notice dismissal of my appeal to the Appeal Board of the New York State Division of Human Rights, I wrote a letter to the Regional Office of the EEOC, in New York City, advising it that I had heard nothing from it since I had filed my Complaint with it in May, 1972, just over one (1) year prior thereto (See: Exhibit "W" attached hereto and made part hereof). I advised said Office that I desired to up date my EEOC Complaint, numbered TNY 2-1126 and attached a copy of my February, 1973 Complaint which I had filed theretofore with the New York State Division of Human Rights (See: Exhibit "R", infra).

33. On June 12, 1973, I received a letter from the EEOC Regional Office, in Buffalo, and was advised that the case had been transferred from the New York City Office to the Buffalo Office and that the number of my Complaint had been changed from TNY2 1126 to TBU3 0097. I complied with the request to fill out and have notarized the form enclosed with the letter. See: Exhibit "X" attached hereto and made part hereof.

34. In reply to my inquiry, the EEOC Regional Office in Buffalo, specifically stated to me, in its letter of June 12, 1973 (Exhibit "X", infra) that:

You question your right to proceed in Federal District Court. Section 706 (f)(1) and the Commission's Regulations provided that at any time after the expiration of 180 days from the filing of a charge, an aggrieved person may demand in writing that the Commission issue a Notice of Right To Sue. If you request that EEOC issue such Notice, please be advised that such Notice will apply only to your early charge with us, TBU3 0097 (formerly TNY2 1126).

35. On June 22, 1973, Langston McKinney, Esq., a staff attorney with the Onondaga Neighborhood Legal Services, Inc., wrote a letter to Ms. Banks at the EEOC Regional Office, in Buffalo, requesting that a "Notice of a Right to Sue" letter be issued based on my original charge, as amended, the original charge initially being numbered TNY2 1126 and subsequently numbered TBU3 0097 when it was transferred to the Buffalo Regional Office from the New York City Regional Office. Furthermore, it is apparent from the substance of Mr. McKinney's letter that Ms. Weise's amendment to her/^{original} Complaint, while given a separate number (TBU3 0549) had been consolidated with her original Complaint (TBU3 0097). See: Exhibit "Y" attached hereto and made part hereof.

36. On June 29, 1973, the United States Equal Employment Opportunity Commission, through its Regional Office in Buffalo, issued a "Notice of a Right to Sue" letter to Ms. Selene Weise,

under cover a letter to Mr. McKinney. See: Exhibit "Z" attached hereto and made part hereof. In the letter, Mr. Lloyd G. Bell, District Director of the EEOC Regional Office, in Buffalo, specifically advised Mr. McKinney to disregard charge number TBU3 0549 which had been assigned to her retaliation charge of May, 1973. Said retaliation charge number was assigned the original charge number, to wit: TBU3 0097. .

37. In view of the foregoing it is evident that the "Notice of the Right to Sue" letter issued by the Equal Employment Opportunity Commission Regional Office, in Buffalo to me, in June, 1973, encompassed within its purview and was based upon the Complaint I filed with the Equal Employment Opportunity Commission Regional Office, in New York, in May, 1972 (which was numbered TNY2-1126) and my amendment thereto, which was filed with the New York Regional Office of the EEOC on May 28, 1973, and which, thereafter, was transferred to the Buffalo Regional Office of the Equal Employment Opportunity Commission along with my original complaint. In the Buffalo Office, the original Complaint was re-numbered from TNY2-1126 to read TBU3 0097; the amended Complaint was numbered to read TBU3 0549; and thereafter both the original and amended Complaints were consolidated and incorporated under the number TBU3 0097, pursuant to which the "Notice of Right To Sue" letter was issued.

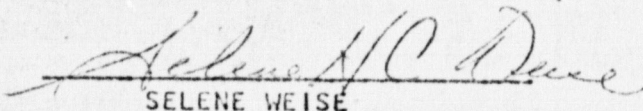
38. All of the allegations incorporated in my EEOC Complaints were specifically alleged in either my initial Complaint to the New York State Division of Human Rights or a subsequent complaint or amendment thereto (all of which are attached hereto and made part hereof.).

39. Furthermore, Syracuse University, Melvin Eggers, Clifford Winters, Ray Irwin and Buulah Rohrlach were all named as Respondents in one or more of the New York State Division of

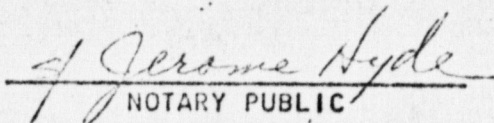
Human Rights proceedings; and they therefore come within the purview of my EEOC Complaints and the Notice of the Right to Sue letter attendant thereto which incorporated therein and were based upon the state administrative complaints and proceedings.

40. Allegations three (3) through thirty-five (35) of the Complaint filed with this Court and served upon the Defendants all come within the purview of the Notice of Right to Sue letter issued to me by the EEOC, in June, 1973, as all were alleged before the New York State Division of Human Rights and all were, therefore, incorporated in my Complaint and Amendment thereto before the Equal Employment Opportunity Commission. Furthermore, Syracuse University, Melvin Eggers, Beulah Rohrlach, ^{Clifford} Charles Winters and Ray Irwin all come within the purview of the aforementioned Notice of Right to Sue Letter issued by the EEOC to me in June, 1973.

41. Accordingly, pursuant to the Notice of Right to Sue letter issued by the EEOC to me in June, 1973, and my exercise of that right, this Court has proper jurisdiction over all of the allegations contained in my Complaint and all of the named Defendant parties named therein, said jurisdiction being conferred upon it by 42 U.S.C. §§2000e, et seq., (Title VII of the Civil Rights Act of 1964 as amended).


SELENE WEISE

Sworn to and subscribed before me
this 21 day of November, 1973


NOTARY PUBLIC

My Commission Expires: 3/30/1974

"A"

Re:

NOTICE OF RIGHT TO Sue
WITHIN 90 DAYS

In Case No. TBMJ 0097 before the Equal Employment Opportunity
Commission, United States Government.

Selene Harding Curd Weiss

v.

Syracuse University

YOU ARE HEREBY NOTIFIED THAT:

WHEREAS, this Commission has not filed a civil action with
respect to your charge as provided by section 706(f)(1) of
Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.
2000e et seq; and,

WHEREAS, this Commission has not entered into a conciliation
agreement to which you are a party;

THEREFORE, pursuant to §706(f) of Title VII, you may within
90 days of your receipt of this Notice, institute a civil action
in the United States District Court having jurisdiction over your
case.

Should you decide to commence judicial action, you must do so
within 90 days of the receipt of this letter or you will lose
your right to sue under Title VII.

If you are not represented by counsel and you are unable to obtain
counsel, the Court may in its discretion, appoint an attorney to
represent you.

Should you have any questions concerning your legal rights or have
any difficulty filing your case in court, please contact Mr.
Donald Copeland of our Regional Office at (212) 264-3644.

Lloyd G. Bell
LLOYD G. BELL, District Director

6/28/73
DATE

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"B"

SYRACUSE UNIVERSITY

GRADUATE STUDENT ORGANIZATION | ROOM 205 | YOUTH DEVELOPMENT CENTER

945 SOUTH CROUSE AVENUE | SYRACUSE, NEW YORK 13210

May 3, 1970

The Executive Committee of the Graduate Student Organization, meeting in extraordinary session, has considered the case of Ann Susan Weiss, who alleges that her academic freedom was violated in the process of consideration for a teaching appointment in the School of Speech and Dramatic Arts. The Executive Committee of the GSO hereby requests the University Senate to conduct an investigation of this matter, to appoint an appropriate committee, and to act accordingly as the evidence permits, consistent with the findings of such committee's investigation of this case. The Senate should make some arrangements for investigation before it adjourns over the summer.

Ed Silver
President

Certified a True Copy

Michael A. Lora
Secretary of GSO, Records

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SYRACUSE UNIVERSITY

GRADUATE STUDENT ORGANIZATION | ROOM 205 | YOUTH DEVELOPMENT CENTER

600 SOUTH CROUSE AVENUE | SYRACUSE, NEW YORK 13210

May 4, 1970

The Executive Committee of the Graduate Student Organization, in its regular session, has reviewed the case of [redacted], who alleges that her academic freedom was violated in the process of consideration for a position in the School of Speech and Dramatic Arts. The Executive Committee of the GSO hereby requests the United States to conduct an investigation of this serious matter, to ensure an appropriate resolution, and to act accordingly. The Committee further requests that the findings of this investigation be made known to the public, and that the United States take appropriate action to ensure that such violations do not recur.

Bob Oliver
President

Certified a True Copy

[Signature]
Secretary

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...of the Federal Copyright and Dramatic Act and the Acting
...by the University Senate for the election
...of the Academic Instructors; I signed of Mrs. Solera
...confidence in her work, in the person
...for a teaching appointment.

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Selene Harding, Card Weise
against

Complainant

COMPLAINT NO.

44-595-70

Syracuse University School of Speech and
Dramatic Art, Prof. Ray L. Irwin, Acting
Dean; Clifford L. Winters, Acting Vice-
Provost
Respondent

Selene Harding, Card Weise
residing at 301 Salt Springs Road, Syracuse
Syracuse University School of Speech and Dramatic Art, Prof. Ray L. Irwin, Acting
Dean; Clifford L. Winters, Acting Vice-Provost

whose address is Syracuse University, Syracuse 13210
with an unlawful discriminatory practice relating to employment on or about August 1969 and continuing
by refusing to hire me

because of my AGE (), RACE (), CREED (), COLOR (), NATIONAL ORIGIN (), SEX (x).

The particulars are:

1. In March 1969 I was re-admitted to the Syracuse University Graduate School and accepted into the Humanities Doctoral Program. Upon information and belief to date I have completed 50 hours of course work with the grade of A and 13 hours with a grade of B.
2. When Prof. Charles D. Smith first introduced me to Dr. Irwin and told him that I hoped to earn a doctorate he commented, "What a romantic idea". Since I had never met Prof. Irwin before and he knew nothing about me, I could only conclude that he did not think that women were qualified to do scholarly work.
3. On or about August 1969 Prof. Smith told me that he was resubmitting a request to hire me for the Lectureship that had become vacant. Upon information and belief, this lectureship had been held by Cornell B. Wandering. I had previously submitted an application for a graduate assistantship.
4. On September 4, 1969, Dr. Smith returned to his home and told me that he had resigned his chairmanship because of the circumstances surrounding a meeting held the night before at the home of Dean Irwin. He told me that he could no longer run a department in which he was not permitted to hire the most qualified applicant. Upon information and belief, Dean Irwin had called for this department meeting for 10 p.m. He notified Dr. Polyzich and Ms. Heise about the meeting at 9:30 p.m. the same evening. Upon information and belief, they voted not to accept Dr. Smith's recommendation of me. I believe that the normal procedure would have been for a department meeting to be called with advance notice, held during normal working hours in the department chambers and with a quorum of the full-time staff present. Upon information and belief, Dr. Smith and Ronald Burke should have been notified of this meeting and present. Dean Irwin is not considered a member of the department and as such has no vote. I was never given a reason for the negative vote by this group.
5. At a subsequent time Dr. Smith was told by Dean Irwin that he and Dean Pisker objected to my living arrangements, as I, along with my son, was living in the home of Dr. Smith. Dr. Smith explained to them that I was not able, financially, to provide other housing arrangements for my son and myself. It was also stated that there were no questions concerning my qualifications for the position. On or about April 26, 1970, I wrote Chancellor Corbally about my situation. Acting Vice-Provost Clifford L. Winters, Jr., answered on April 29, 1970, stating he did not see a review of my case as being useful as my failure to obtain an appointment had to do with my training and experience. This discrepancy has never been explained.

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Complainant: Selene Harding Card Maine Complaint No.

Respondent: Syracuse University School of Speech and Dramatic Art, Prof. Ray L. Irwin,
Acting Dean; Clifford L. Winters, Acting Vice-Prevost

6. Upon information and belief any individual holding a lectureship or instructorship in the Department of Public Address had at least possessed a master's degree and has been a doctoral candidate. Also, teaching experience was preferred. I fill all of these qualifications. The individual subsequently appointed was a beginning master's candidate without any teaching experience. Because prior standards used in this department going back at least 15 years were so radically lowered, I can only conclude that this was done so as not to hire me and give the job to a man.

7. At the time that I arrived in Dr. Smith's home, there was a male public address graduate student, Mr. David Sampson, also living in the house. Nothing was ever said about Mr. Sampson's living arrangements. Upon information and belief while at Syracuse University he had no trouble pursuing any academic or employment aspirations.

8. Upon information and belief I do not feel that had I been male that an approval of my housing accommodations would have been required as one of my qualifications for appointment.

9. Based on the foregoing statements, I charge the respondents with an unlawful discriminatory act by refusing to hire me in violation of the Human Rights Law of the State of New York because of my sex. I am a female.

By reason of the unlawful discriminatory practice of respondent as herein alleged, complainant has already suffered damages in the sum of \$.....

I have not commenced any civil, criminal or administrative action or proceeding in any court or administrative agency based upon the same grievance.

STATE OF NEW YORK }
COUNTY OF Oneida }

Selene Harding Card Maine
(Signature of Complainant)

Selene Harding Card Maine, duly sworn, deposes and says: that she is the Complainant herein; that she has read the foregoing complaint and knows the contents thereof; that the same is true of her own knowledge except as to the matters therein stated on information and belief; and that as those matters, she believes them to be true.

Subscribed and sworn to before me
this 25th day of June, 1970

ROBERT G. B. [Signature]
Notary Public, State of New York
15-121

Selene Harding Card Maine
(Signature of Complainant)

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STATE OF NEW YORK / EXECUTIVE DEPARTMENT
DIVISION OF HUMAN RIGHTS

SELENE HARDING CURD WEISE

Complainant

Vs.

SYRACUSE UNIVERSITY SCHOOL OF SPEECH AND
DRAMATIC ART, PROF. RAY L. IRWIN, ACTING
DEAN; CLIFFORD L. WINTERS, ACTING VICE-
PROVOST

Respondent

Case No. V-CS-595-70
CS-21318-70

DETERMINATION AFTER INVESTIGATION

On June 25, 1970, Selene Harding Curd Weise, who is a female, filed a verified complaint with the State Division of Human Rights charging the above-named respondents with an unlawful discriminatory practice relating to employment because of her sex, in violation of the Human Rights Law of the State of New York.

After investigation, the Division of Human Rights has determined that it has jurisdiction in this matter and that there is probable cause to believe that the respondents have engaged in or are engaging in the unlawful discriminatory practice complained of.

Pursuant to Section 297.4.a of the Law, this matter is hereby ordered to public hearing. A Notice of Hearing shall be issued.

Dated: September 17, 1970

STATE DIVISION OF HUMAN RIGHTS

By Neal M. Hoffman
Neal M. Hoffman, Regional Director

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STATE DIVISION OF HUMAN RIGHTS

on the complaint of

SHE HARDING CURD WEISE

Complainant,

against

COMPLAINT NO.

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SYRACUSE UNIVERSITY, SCHOOL OF SPEECH AND
 DRAMATIC ART; DOCTOR BEULAH BOHRRLICH, DEPT.
 CHAIRMAN; DR. RAY IRWIN, DEAN; AND CLIFFORD L.
 WINTERS, ACTING VICE-PROVOST

Respondent.

Selene Harding Curd Weise

Residing at 301 Salt Springs Road, Syracuse 13224

Tel No. 446-9437

Syracuse University, School of Speech and Dramatic Art; Doctor Beulah Bohrlich,

Dept. Chairman; Dr. Ray Irwin, Dean; and Clifford L. Winters, Acting Vice-Provost

whose address is Syracuse University, Syracuse 13210

Tel No. 476-5541

with an unlawful discriminatory practice relating to employment on or about Sept. 17, 1970 and continuing
 by retaliating against me for having previously filed a complaint with the New York State
 Division of Human Rights

because of my AGE (), RACE (), CREED (), COLOR (), NATIONAL ORIGIN (), SEX ().

The particulars are:

On June 25, 1970 I filed a complaint with the New York State Division of Human Rights
 alleging that I was discriminated against and refused a position because of my sex
 Syracuse University, Ray Irwin, Dean, and Clifford L. Winters, Acting Vice-Provost.

On information and belief the complaint was investigated by the Division which
 resulted in a finding of probable cause to believe that the respondents had engaged in
 unlawful discriminatory act. Subsequently, the complaint was sent to public hearing.

The hearing began on December 7, 1970 and is yet to be completed. I received
 letter of termination on December 14, 1970.

On information and belief a first year graduate student who is one of
 Doctor Bohrlich's advisees and a registered student in her section of interviewing
 given as a graduate project the task of writing a comparative study between my
 interviewing section and Doctor Bohrlich's. This effectively gave Doctor Bohrlich
 method of spying on my work under the guise of scholarly work.

I feel that the above described actions were taken against me because I filed a
 previous complaint against the respondent, the investigation of which included
 Doctor Bohrlich's being interviewed.

I therefore charge the respondents with an unlawful act of discrimination
 retaliating against me for having previously filed a complaint with the New York
 State Division of Human Rights in violation of the Human Rights Law of the State of New
 York.

By reason of the unlawful discriminatory practice of respondent as herein alleged, complainant has already suffered
 damages in the sum of \$.....

I have not commenced any civil, criminal or administrative action or proceeding in any court or administrative
 agency based upon the same grievance.

STATE OF NEW YORK
 COUNTY OF Onondaga ss:

Selene Harding Curd Weise

being duly sworn, deposes and says: that she is the Complainant herein; that she has read
 the foregoing complaint and knows the contents thereof; that the same is true of her own knowledge except as to the
 matters therein stated on information and belief; and that as those matters she believes the same to be true.

Subscribed and sworn to before me

(Signature of Complainant)

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NEW YORK STATE : EXECUTIVE DEPARTMENT
DIVISION OF HUMAN RIGHTS

SELMA HARDING CURD WEISE

Complainant

SYRACUSE UNIVERSITY, SCHOOL OF SPEECH AND
DRAMATIC ARTS; DOCTOR BEULAH KOHRLICH, DEPT.
CHAIRMAN; DR. RAY HIGGIN, DEAN; AND CLIFFORD
J. WINTERS, ACTING VICE-PROVOST

Respondent

: In all correspondence, please
: refer to:

: Case No. V-C-766-70

DETERMINATION AFTER INVESTIGATION

On December 16, 1970, Selma Harding Curd Weise, who is a female, filed a
verified complaint with the State Division of Human Rights charging the above-
named respondents with an unlawful discriminatory practice relating to employ-
ment because of her sex, in violation of the Human Rights Law of the State of
New York.

After investigation, the Division of Human Rights has determined that it has
jurisdiction in this matter and that there is probable cause to believe that
the respondents have engaged in or are engaging in the unlawful discriminatory
practice complained of.

Pursuant to Section 297.4.A of the Law, this matter is hereby ordered to public
hearing. A Notice of Hearing shall be issued.

Dated: December 23, 1970

STATE DIVISION OF HUMAN RIGHTS

by Neal H. Hoffman
Neal H. Hoffman, Regional Director

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"6"

1971

MR. TORRES: Off the record.

At this time a discussion was
had on the record.)

MR. TORRES: MR. Gushka, will
you all so more specifically the nature
of the amendment to the complaint?

MR. GUSHKA: The complaint
will be amended to add an additional
ground for retaliation, and this is
circumstances surrounding the change
in Mrs. Thine's teaching assignment
for the Spring semester of 1971.

MR. TORRES: Mrs. Seidenberg,
do you concur with that?

MRS. SEIDENBERG: I concur.

MR. FITZGERALD: And I object
to this.

MR. TORRES: Objection is
overruled. The complaint is deemed
amended to include that new allegation.

MR. FITZGERALD, at this time,
will you like to proceed with your
side of the case?

MR. FITZGERALD: Well, do the

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STATE DIVISION OF HUMAN RIGHTS

on the complaint of

Selene Harding Cord Weiss

Complainant,

against

SYRACUSE UNIVERSITY AND HELVIN A. EGGERS

COMPLAINT NO.

Respondent.

Selene Harding Cord Weiss

Residing at 301 Salt Springs Road, Syracuse
 Syracuse University and Helvin A. Eggert

Tel No. 446-9437

These address is Syracuse University, Syracuse, New York 13210

Tel No. 476-5541

Re an unlawful discriminatory practice relating to employment on or about Sept. 12, Oct. 19, Nov. 15, & 23,
 retaliating against me for previously having filed 1971, and continuing
 a complaint with the New York State Division of Human Rights

XX

The particulars are:

On or about June 25, 1970, and December 16, 1970, I filed complaints with the New York State Division of Human Rights against Syracuse University and one of its sub-divisions. One of these complaints were ordered to hearing.

Since I first arrived at Syracuse University and obtained parking privileges I have been permitted to park on the campus by medical permit because I have asthma.

During the first week of September on or about September 2, as I had done in the past, I went to the Security Office in person to apply for my medical parking permit. I was advised by the secretary to go to the Student Health Service and obtain a letter from the physician authorizing me special medical parking privileges on the campus. That same day I went to the Health Service and obtained a statement from a physician. I then returned to the Security Office with this medical statement in a sealed envelope and was told by the secretary that I would be advised in 10 days about my parking.

On or about September 9, 1970, I left Syracuse to go to England for a research trip. While I was there, I received a communication from Doctor Charles D. Smith who advised me that my request for medical parking had been turned down. Although Doctor Smith is my City Advisor he advised me there was nothing further he could do about the matter.

On or about October 19, 1971, when I returned to Syracuse, I went back to the Security Office to determine the disposition of my request for special parking. The secretary advised me that it had been denied because there were fewer parking places and more applications. I attempted to explain that I had had special medical parking on the campus for years previously and that because of my asthma I was unable to walk up the hill during severe winter weather without jeopardizing my health. The secretary suggested that I see Doctor Pauland Graeber, Chairman of the University Parking Committee. I saw Doctor Graeber that same day in his office. I advised him of my medical problem. He seemed quite sympathetic and advised me to reapply. I did so that same day.

Although in the past it has taken approximately 10 days for approval of my special parking, I did nothing further about my request until on or about November 15, 1971. During the period October 19 until November 1 I had temporary parking privileges in lot A-6.

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Complainant: Selene Harding Card Weiss Complaint No.

Respondent: Syracuse University and Melvin A. Eggers

On or about November 15 I returned to the campus Security Division to determine what had happened to my request. I was advised by the same secretary that the best the parking committee could do was authorize me parking privileges in lot A-1 from 4:30 P.M. on Mondays through Fridays. I attempted to explain that this would not work because I was compelled to be on the campus many times during the day before 4:30 P.M. She replied that perhaps the privilege might be able to be pushed back to 4:00 P.M.

Within a day or two I met Doctor Graeber on campus. I attempted to explain the situation to him. He advised me that the parking privileges I had been offered were the best that could be done. I attempted to ask him what I had to do about commitments I had on the campus prior to 4:30 P.M., as those with the Graduate Student Organization, University Senate, Board of Academic Studies, other committees, and academic commitments. Doctor Graeber replied that the Graduate Student Organization was not essential to the University's activities. I advised him that this attitude was not acceptable. He then advised me that I could write a letter to him with a list of my activities, and I could come in daily to the Security section, which would work out what I was to do. He also mentioned that perhaps I should obtain a stronger medical letter.

Upon information and belief, attempts have been made to contact the Chancellor of the University by the Graduate Student Organization and by Mr. Neal H. Hoffman, Regional Director, of the Syracuse office of the New York State Division of Human Rights about what has been done to me in my request for medical parking. Further, upon information and belief, no answer has been provided by Chancellor Eggers.

1. On or about November 23, 1971, I was contacted at home by telephone by the secretary in the Security Division. She advised me that she had a letter to me from Doctor Graeber authorizing me parking privileges in lot A-1 after 4:00 P.M. for five days a week and I could come one day a week and give the Security Office a schedule of my activities for the week, including duration, location, time, and names of committees and organizations.

2. Based on my prior approval for medical parking on the campus and the events which have occurred since September of this year and my prior complaints I can only conclude that the refusal of my request for medical parking is further retaliation against me. Further, because of my physical condition I have serious doubts as to my capability of accomplishing the necessary work from my degree.

3. I, therefore, charge the respondent with an unlawful act of discrimination in violation of the Human Rights Law of the State of New York by retaliating against me for previously having filed a complaint with the New York State Division of Human Rights.

By reason of the unlawful discriminatory practice of respondent as herein alleged, complainant has already suffered damages in the sum of \$.....

I have not commenced any civil, criminal or administrative action or proceeding in any court or administrative agency based upon the same grievance.

STATE OF NEW YORK
COUNTY OF ORONDAGA

Selene Harding Card Weiss
(Signature of Complainant)

Selene Harding Card Weiss, being duly sworn, deposes and says that she is the Complainant herein; that she has read the foregoing complaint and knows the contents thereof; that the same is true of her own knowledge except to the matters therein stated on information and belief; and that as those matters she believes the same to be true.

Selene Harding Card Weise	Complainant	:	In all correspondence,
vs		:	please refer to:
Syracuse University and		:	
Malvin A. Eggers	Respondent	:	Case No. V-C-1256-71
		:	C-25736-71

DETERMINATION AFTER INVESTIGATION

On December 1, 1971, Selene Harding Card Weise filed a verified complaint with the State Division of Human Rights charging the above-named respondent with an unlawful discriminatory practice relating to retaliation for the complainant having previously filed a complaint against this respondent in violation of the Human Rights Law of the State of New York.

After investigation, the Division of Human Rights has determined that there is no probable cause to believe that the respondent has engaged in or is engaging in the unlawful discriminatory practice complained of. The investigation disclosed that eight students, diagnosed as asthmatics, applied for medical parking privileges in the 1971-1972 school year. All were refused. No evidence was uncovered that the complainant, an asthmatic, was refused a medical parking permit because she had previously filed a complaint.

This complaint is therefore ordered dismissed and the file is closed.

The complainant or any party to the proceeding before the Division may appeal this order to the State Human Rights Appeal Board, 250 Broadway, New York, New York 10007, by filing a notice of appeal within fifteen (15) days after the date of the mailing of this order.

Dated: May 16, 1972

STATE DIVISION OF HUMAN RIGHTS

Neal M. Hoffman
 Neal M. Hoffman, Regional Director

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STATE DIVISION OF HUMAN RIGHTS

STATE DIVISION OF HUMAN RIGHTS

on the complaint of

SELENE HARDING CURD WHEISE,

Complainant,

- against -

SYRACUSE UNIVERSITY, SCHOOL OF SPEECH
AND DRAMATIC ARTS; PROFESSOR RAY IRWIN,
ACTING DEAN, CLIFFORD L. WINTERS,
ACTING VICE-PROVOST; AND DR. BEULAH
RODRIGUEZ, DEPARTMENT CHAIRMAN,

Respondents.

NOTICE OF ORDER AFTER
CONSOLIDATED HEARING

CASE NOS. CS-21318-70
CS-22792-70

SIRS:

PLEASE TAKE NOTICE that the within is a true copy of
an Order issued herein by Jack M. Sable, Commissioner of the
State Division of Human Rights, after a hearing held before
Hearing Examiner Jose Ramon Torres. In accordance with the
Division's Rules of Practice, copies of this Order have been filed
in the offices maintained by the Division at 270 Broadway, New
York, New York 10007, and at 333 East Washington Street, Syracuse,
New York 13202. The Order may be inspected by any member of the
public during the regular office hours of the Division.

PLEASE TAKE FURTHER NOTICE that in accordance with
Section 297-a of the New York State Human Rights Law, any party to
the proceeding aggrieved by said Order of the Division may obtain
review thereof in a proceeding before the State Human Rights
Appeal Board, 250 Broadway, New York, New York 10007, provided
such appeal is commenced by the filing with the Board of a notice
of appeal within fifteen (15) days after the service of this Order.

DATED: APR 21 1972
NEW YORK, NEW YORK

STATE DIVISION OF HUMAN RIGHTS

Jack M. Sable
JACK M. SABLE
COMMISSIONER

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Mrs. Selena Harding Carl Weiss
301 Salt Springs Road
Syracuse, New York 13234

Faith Seidenberg, Esq.
1404 State Tower Building
Syracuse, New York 13202

Syracuse University, School of Speech & Dramatic Arts
Syracuse University
Syracuse, New York 13210

Dr. Ray L. Irwin, Acting Dean
Syracuse University School of Speech & Dramatic Arts
Syracuse, New York 13210

Dr. Clifford L. Winters, Acting Vice-Provost
Syracuse University
Syracuse, New York 13210

Dr. Paulah Rehrlich, Chairman
Department of Public Address
School of Speech and Dramatic Arts
Syracuse University
Syracuse, New York 13210

Bond, Schoeneck & King, Esqs.
William F. Fitzpatrick, Esq., of Counsel
1000 State Tower Building
Syracuse, New York 13202

Henry Spitz, Esq., General Counsel
Adele Graham, Esq., of Counsel
State Division of Human Rights
270 Broadway, New York,
New York, New York

Hon. Louis J. Lefkowitz
Attorney General
80 Centre Street
New York, New York

STATE OF NEW YORK : EXECUTIVE DEPARTMENT
STATE DIVISION OF HUMAN RIGHTS

STATE DIVISION OF HUMAN RIGHTS

on the complaint of

SELENE HARDING CUBED WEISS,

Complainant, : CASE NOS. CS-21316-70
: CS-22792-70
- against - : (Consolidated)

SIRACUSE UNIVERSITY, SCHOOL OF
STEECH AND DRAMATIC ARTS; PROFESSOR :
RAY IRWIN, ACTING DEAN, CLIFFORD L. :
WINTERS, ACTING VICE-PROVOST; AND :
DR. BEULAH LOHRICH, DEPARTMENT :
CHAIRMAN, :

Respondents. :

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PROCEEDINGS IN THE CASE

On the 25th day of June, 1970, and on the 16th day of December, 1970, the above-named Complainant filed a verified complaint with the State Division of Human Rights (hereinafter the "Division") charging the Respondents with an unlawful discriminatory practice relating to employment, in violation of the Human Rights Law (Executive Law, Article 15) of the State of New York.

After investigation of each complaint, the Division found that it had jurisdiction over the respective complaints and that probable cause existed to believe that Respondents had engaged in the unlawful discriminatory practice as charged on each complaint. The Division thereupon referred the cases to public hearing.

After due notice, the consolidated hearing was held on October 7, 1970, January 18, 19, March 3, 4, March 29, 30, April 22 and May 21, 1971, before Joseph J. Conroy, a Hearing Officer of the Division.

At the hearing, Complainant and Respondents appeared. Complainant was represented by Paula Silverman, Esq. Respondents were represented by John J. Conroy, Esq. and by William F. Ryan, Esq. The hearing was held by

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LISTING OF FACT

- ✓ 1. Complainant Selene Harding Curd Weise is a female.
- ✓ 2. At various times since 1967 and at all times pertinent herein, the Complainant resided in the home of Dr. Charles D. Smith who was an Associate Professor and Chairman of the Department of Public Address in the School of Speech and Dramatic Arts at Respondent Syracuse University.
- ✓ 3. In January, 1968, Complainant enrolled in the School of Speech and Dramatic Arts, Department of Public Address, Syracuse University, in pursuit of her Master's Degree, which she completed in approximately six months.
4. Dr. Smith was involved directly in a substantial number of the courses taken by Complainant in her course of study and he interceded on her behalf in a class taken by Complainant which was taught by a graduate student in the Department of Public Address.
- ✓ 5. Thereafter, Complainant went to Indiana University where she obtained a graduate assistantship while pursuing her Doctoral Degree.
- ✓ 6. In February, 1969, while still attending Indiana University, Complainant applied for re-admission to the graduate school of Syracuse University for the September, 1969 term, and automatically applied for a graduate assistantship.
- ✓ 7. Complainant's application for re-admission was accepted; her application for a graduate assistantship was denied by Dr. Frank Fiskor, then Acting Dean of the School of Speech and Dramatic Arts.
- ✓ 8. Upon her return to Syracuse University for the September, 1969 term, Complainant became a Ph.D candidate in the Humanities Doctoral Program, an interdisciplinary program administered through the College of Arts and Science.
- ✓ 9. This particular degree, offers three generally related disciplines of study in more than one department, of which one is considered a major. Complainant's major discipline was in speech.

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✓ 10. At that time, Dr. Ray Irwin, a Respondent herein, was the Associate Dean of the School of Speech and Dramatic Arts, and Dr. Smith was Chairman of the Department of Public Address.

11. In addition to Dr. Smith, the other members of the full time faculty of the Department of Public Address were Dr. Beulah Rohrlach, a female, also a Respondent herein, and Mr. Paul McKee, lecturer and a Ph.D. candidate in the School of Speech, Department of Speech Education.

✓ 12. On or about August 15, 1969, Mr. Cornell E. Blanding, a Ph.D. candidate and a member of the full-time faculty of the Department of Public Address, had applied for a one year leave of absence.

✓ 13. In or about the middle of August, 1969, Dr. Smith telephoned Dr. Rohrlach and told her that he was going to propose to the faculty of the Department of Public Address that Complainant be appointed to the lectureship vacated by Mr. Blanding.

✓ 14. When Dr. Rohrlach inquired about Mr. McKee's position on the proposed appointment, Dr. Smith asserted that Mr. McKee approved of said appointment. Dr. Rohrlach then informed Dr. Smith that if Mr. McKee was in agreement with Complainant's appointment, she would go along with it too.

✓ 15. Following an initial approach to Dr. Irwin, Dr. Smith sent a letter to Respondent Dr. Clifford L. Winters, who at that time was Acting Vice-Provost, wherein he indicated that Complainant's appointment to the lectureship would be received enthusiastically by all the full-time members of the Department of Public Address, especially by Dr. Rohrlach.

✓ 16. On August 16, 1969, Mr. McKee left for St. Louis, Missouri, and returned to Syracuse on September 3, 1969, when he learned for the first time of Dr. Smith's recommendation of the Complainant for the position of lecturer.

17. I find that Dr. Smith misrepresented Mr. McKee's position to Dr. Rohrlach and that the latter's approval of the subject appointment was obtained through the said misrepresentation.

18. I find that Dr. Rohrlach's position with regard to Complainant's appointment was misrepresented by Dr. Smith in his

letter to Dr. Winters.

✓ 19. On September 4, 1969, Dr. Rohrllich informed Dr. Smith of her withdrawal of support for the Complainant's appointment to the instant lectureship and due to the opposition of Dr. Rohrllich and Mr. McKee, Complainant was not appointed to the position of lecturer.

✓ 20. Dr. Smith resigned the Chairmanship of the Department of Public Address as a result of the faculty's rejection of the Complainant's appointment, and thereafter Dr. Rohrllich assumed the Chairmanship of the Department of Public Address.

21. On or about September 7, 1969, Dr. Rohrllich promoted Mr. Anthony Cusmano to the instant lectureship. The appointment was approved by the members of the full-time faculty of the Department of Public Address.

22. Prior to the lectureship appointment, Mr. Cusmano had been accepted as a graduate assistant by Dr. Smith. It was felt that Mr. Cusmano, who had a law degree, could help the speech law curriculum.

✓ 23. In a letter dated January 7, 1970, addressed to Dr. Rohrllich, Chairman of the Department of Public Address, Complainant formally applied for a graduate assistantship in the Department for the academic year 1970-71.

✓ 24. Complainant was given the appointment for one year for the academic year 1970-71 by letter from Dr. Rohrllich dated March 20, 1970.

✓ 25. Complainant accepted the award of a Graduate Assistantship in the Department of Public Address for the academic year 1970-71 via letter dated March 26, 1970.

✓ 26. On June 25, 1970, Complainant filed a complaint with this Division. In substance, Complainant charged Respondents with refusing her a lectureship because of her sex.

✓ 27. In a letter dated December 14, 1970, Dr. Rohrllich informed Complainant that the Department of Public Address was in no position to renew her graduate assistantship for the academic year 1971-72.

-5-
28. On December 16, 1970, Complainant filed a second complaint against the original Respondents and against Dr. Rohrlach, charging Respondents with retaliation against her for having filed a prior complaint with the Division.

29. I find that the Complainant's rejection for the position of lecturer in the Department of Public Address was not based upon considerations of sex.

30. I find that Respondents' decision not to renew Complainant's graduate assistantship for the academic year 1971-72 was not based upon retaliatory motive or intent but was based upon financial, academic and administrative factors.

DECISION

I find based upon the foregoing, that Respondents Syracuse University, School of Speech and Dramatic Arts, Professor Ray Irwin, Clifford J. Winters and Dr. Beulah Rohrlach did not discriminate against Complainant Selene Harding Curd Weise, because of her sex or because she had filed a complaint with the State Division of Human Rights, in violation of the Human Rights Law.

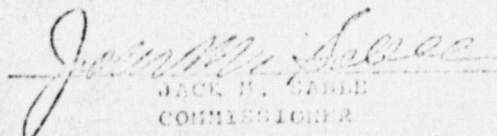
ORDER

Upon the basis of the foregoing Findings of Fact and pursuant to the Human Rights Law, it is hereby

ORDERED, that the complaints of Selene Harding Curd Weise, against all of the named Respondents be, and the same are hereby, dismissed.

DATED: APR 21 1972
NEW YORK, NEW YORK

STATE DIVISION OF HUMAN RIGHTS


JACK H. CABLE
COMMISSIONER

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STATE DIVISION OF HUMAN RIGHTS
Complaint of BERNARD HARDING CURD WEISS

Complainant-Appellant

- v -

SYRACUSE UNIVERSITY, SCHOOL OF BUSINESS and
ECONOMIC ADMINISTRATION, Acting
Dean, CLIFFORD L. WINTERS, Acting Vice-President;
and DR. BRUNDA FORNACE, Department Chairman,

Respondents-Appellees

POLICE OF
ALBANY

Case Nos.
CS-21313-76
CS-22792-76

WITNESSETH:

PLEASE TAKE NOTICE that the complainant-appellant,
BERNARD HARDING CURD WEISS, hereby appeals to the New York State
Human Rights Appeal Board from the decision and order of the
New York State Division of Human Rights, dated April 21, 1972,
finding that the Respondents did not discriminate against Com-
plainant because of her sex; or that Respondents' decision not
to renew Complainant's graduate assistantship for the Academic
Year 1971-72 was not based upon a retaliatory motive.

Dated: May 1, 1972
Syracuse, New York

Jack H. Gable
Commissioner
State Human Rights Div.
Syracuse, N. Y.

Ed. Fitzpatrick, Esq.
Bond, Schoenbeck & King
Syracuse, N. Y.

Adelle Graham, Attorney
State Human Rights Div.

PAUL A. BLOOMBERG
Attorney for complainant-appellant
and
1404 State Tower Bldg.
Syracuse, N. Y. 13202

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-60-

Coronet Hotel, Apt 411
200 G Street SE
Washington, D. C. 20003
May 3, 1972

Equal Employment Opportunity Commission
1306, 26 Federal Plaza
New York, New York 10007

Dear Sir:

Enclosed is a charge of discrimination by me against Syracuse University. As stated therein, I filed a charge in the New York State Division of Human Rights in June 1970. I received a notice of Dismissal of my charge from the Division, Dated April 21, 1972. I have filed notice of an appeal, dated May 1, 1972. I understand, though I do not find it listed on the Charge Form, that New York is a state to which you must defer. It is also my understanding that with a dismissal of charges by the state that the case can come to the Federal Agency, even though an appeal is still pending.

There were several charges of retaliation involved in the Public Hearing at the state level, and there is another one still pending. I would like all of these matters considered, if possible, when the charge is considered.

I am currently in Washington, D. C. working on part of the research for my doctoral dissertation, and I would appreciate having mail sent to this address until further notice. I was unable to continue work on the Syracuse University campus as a result of having a medical parking permit revoked after having held it for six consecutive semesters. Syracuse is very hilly, and regularly has upwards of ten feet of snow in the winter. I am an asthmatic, a condition which the Syracuse University health service thought sufficient for a medical parking permit until this year. I filed a charge of retaliation, and that is the one mentioned above which is still pending.

Your consideration of this charge will be most appreciated.

Sincerely,

Solene A.C. Weiss
Solene Harding Gurd Weiss
(Mrs. R. A.)

P.S. For your convenience: Case Numbers 03-21511-70
03-22792-70

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CHARGE OF DISCRIMINATION

If you have a complaint, fill in this form and mail it to the Equal Employment Opportunity Commission's Regional Office in your area. In most cases, a charge must be filed with the EEOC within a specified time after the discriminatory act took place. It is important to file your charge as soon as possible.

This charge is limited only to the charge of discrimination based on RACE, COLOR, RELIGION, SEX, or NATIONAL ORIGIN.

Case File No.

(PLEASE PRINT OR TYPE)

1. Name (Mr., Mrs., etc.) Selma Harding Gura Weiss Phone Number LI 7-6300
 (temporary) Coronet Hotel, 200 C St. S.E. Washington, D.C. 20003
 Street Address 101 Salt Springs Rd. State Syracuse, New York Zip Code 13224
 City

2. WAS THE DISCRIMINATION BECAUSE OF: (Please check one)

Race or Color ☐ Religious Creed ☐ National Origin ☐ Sex ☒

3. Who discriminated against you? Give the name and address of the employer, labor organization, employment agency and/or appraisal relationship committee. If more than one, list all.

Name Syracuse University

Street address

City Syracuse

State New York

Zip Code 13210

AND (other parties if any) Dr. Ray Irwin, Dr. Eustach Schriber, Dr. Clifford L. Winters

4. Have you filed this charge with a state or local government agency?

Yes ☒

When

June 25, 1970

No ☐

5. If your charge is against a company or a union, how many employees or members?

Under 25 ☐

Over 25 ☒

6. The most recent date on which this discrimination took place: Month August Day 1969 Year to the present

7. Explain what unfair thing was done to you. How were other persons treated differently? (Use extra sheet if necessary.)

In August 1969, in response to a query from the Chairman of the Department of Public Address, School of Speech and Dramatic Arts, Dr. Charles B. Smith, I was told that no one had been proposed for the post of lecturer which had come suddenly vacant, a position normally held by a graduate student with a Masters degree and teaching experience. I was turned down for the job as a result of a meeting between the Dean of the School, Dr. Irwin, and two of the four regular faculty members of the department, not including the chairman. A man was given the job instead. My qualifications for the job were demonstrably superior to his, as he was a first year Master's candidate and I a third year Doctoral student. But it was stated to me that the reason they refused the appointment to me was my place of residence, giving nothing to do with professional qualifications for the job. I live with my grown son, a Syracuse University undergraduate student, in the home of the department chairman. (See attached)

8. I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

Date July 6, 1970

(Sign your name)

Subscribed and sworn to before me this

day of

196

(Title)

(Title)

It is recommended that you get a Notary Public to sign this, sign your own name and mail to the Regional Office. The Commission will help you find a Notary Public.

FORM AEE-500 OF BUREAU-NO. 124-80001

FORM 1000-5 (REV. 7-69)

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Section 7 (continued)

The method of selection was a departure from the usual procedure, but if the post ^{was} to be opened to first year graduate students, the next most professionally qualified person would have been Miss Barbara Tansman, who had a B.A. in speech, plus teaching experience. The man chosen had no work in speech and no teaching experience.

From the time of the selection, 1969, to the present, there have been no women at the rank to which I aspired, and to the best of my knowledge there have never been any. At the time of the Public Hearing, there were seven faculty posts in the School of Speech held by persons below the level of Ph.D., of these none were women. In the entire School of Speech there were twenty-three faculty members, lecturer and above. Of these, two were women. Currently in the entire Syracuse University, according to statistics published by the Syracuse University Chapter of the American Association of University Professors, twelve per cent of the regular faculty are women.

The year following my application for the lectureship, I was granted ^{unofficial} ~~unofficial~~ consent of all ^{departmental} ~~departmental~~ members a graduate assistantship. A week after the opening of the Public Hearing, this was revoked ~~for the~~ for the following year, presumably as a result of my having filed a complaint with the New York State Division of Human Rights. By application for next year was not considered, though as a continuing full-time doctoral student, I was eligible for consideration. The assistantship which was revoked in December 1970, would have been for the current academic year.

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EN 12 1972

1172 1126

Mr. John Harding Card Wines
Coronet Hotel, Apt. 411
200 E. 16th St.
Washington, D.C. 20003

Dear Mr. Wines:
We have received your communication alleging unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964, as amended. Under Section 706 of Title VII, this Commission cannot accept your complaint until a state or local agency has had at least 60 days to try to resolve your problem.

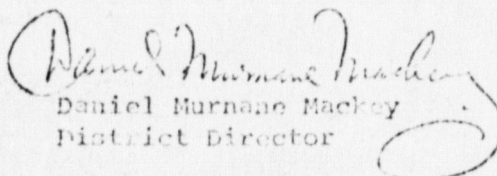
We have, therefore, sent your complaint to the New York State Division of Human Rights, 270 Broadway, New York, N.Y. 10007, and ask you to cooperate fully in their investigation of this matter. Please contact them immediately to be certain that all requirements for commencing proceeding in your case have been met.

Unless we hear from you to the contrary, we will automatically file your complaint after the 60 day period has ended. If the state should end its proceeding earlier than 60 days we will file the complaint when it does so, unless we hear from you to the contrary.

If the state has not been able to resolve your complaint, we will undertake an investigation as soon as possible.

I must, however, tell you that we have many charges on file and it may be many months until we can actually begin an investigation. Please be patient and we will contact you as soon as resources allow.

Sincerely,


Daniel Murnane Mackey
District Director

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DATE 7/19/72

TO : Mrs. Selene Harding Gurd Weise

FROM: Mrs. E. Wright, EEO *E. Wright*

As requested in your letter of July 11, 1972, the material was xeroxed and the enclosed returned to you as follows:

1. Syracuse University Faculty Salaries 1971-1972
 2. Graduate Student Organization Syracuse University
 3. Report on the Status of Full-time Women teaching faculty - Syracuse U
 4. Graduate Student Organization Supplement to the Report on Status of Full-time Women Teaching Faculty
- DO NOT USE FOR PERMANENT RECORDS MAINTENANCE
GPO 52-8371

GSA-KASH DC 65-1494

ONLY COPY AVAILABLE

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11 July 1972

Mrs. Gail Christie
Equal Employment Opportunity Commission
25 Federal Plaza, Room 4003
New York, New York 10007

Dear Mrs. Christie:

I am writing this to you because I am going to ask you for a big favour. Because I do not now have access to a Xerox machine in a library, I am sending you some original documents from my file, with the request that you Xerox them for whatever copies you need and send the originals back to me. I am doing this in the interest of saving time. The originals I need back are marked.

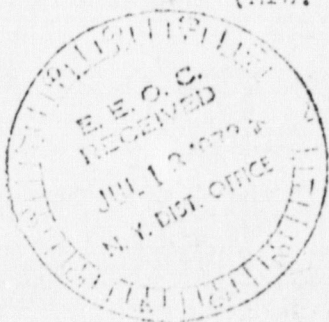
I enjoyed our conversation today, and know that you all will be doing whatever you can to expedite the Syracuse University cases. As I told you on the phone I have been in contact with the Commissioners Office here in Washington with a view to having them consider making the Syracuse University cases a Commissioners Case. There are two reasons for my delay this. The first is obvious, I would like to have my own case settled, as it has been in the State Human Rights Division not for two years, and the latest development on that score is that the University requested and was granted an indefinite postponement of the Appeal Hearing, which had been scheduled for June 22nd, 1972. The second reason is that because there are so many Syracuse University cases, and because, according to the statistics I am currently working on, Syracuse really reflects the national situation, only worse, it seems that a fast case on a high level would serve to expedite what must be a swiftly accumulating mountain of university cases all over the country.

Thanks again for your kindness and friendliness over the phone.

Cordially,

Solene Harding Card Weine
Solene Harding Card Weine
(Mrs. H. H.)

Coronet Hotel, Apt 411
200 G Street SE
Washington, D. C. 20003



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SYRACUSE UNIVERSITY, SCHOOL OF SPEECH AND DRAMATIC ARTS; PROFESSOR RAY HAWIN, Acting Dean, CLIFFORD L. HINTERS, Acting Vice-President; and DR. BEULAH BRAUCH, Department Chairman, Respondents.

Case No. CS-21318-70
CS-22792-79
APPEAL NO. 1327

PLEASE TAKE NOTICE that the appeal in the above entitled case will be heard by the State Human Rights Appeal Board before a member who has been duly designated by the Chairman.

WITNESSED my hand and the seal of said Board this 22nd day of June, 1972.

Such hearing will be held on THURSDAY, JUNE 22, 1972, at 10:00 A.M., or as soon thereafter as counsel can be heard, at the STATE OFFICE-BUILDING, 333 EAST WASHINGTON STREET, ROOM 4504, SYRACUSE, NEW YORK.

The calendar of cases will be called at 10:00 A.M., and parties failing to appear will be noted as in default, unless they have notified the Board by mail or by telegram that they are submitting on the record.

Briefs may be filed by the parties with the Board not less than three (3) days prior to the date of the hearing. Four (4) copies of such briefs must be so filed and copies must be forwarded to all parties to the proceeding.

If oral argument with respect to such appeal is desired by any party, notice thereof must be given to the Board at the time of filing of briefs.

Dated: June 1, 1972

STATE HUMAN RIGHTS APPEAL BOARD

BY Ray L. Hunt
Ray L. Hunt, Chairman

Address: 250 Broadway, 11th Fl.
New York, N. Y. 10007

29:
 1001 1st So Harding Card Weiss
 1001 1st So Harding Card Weiss
 1001 1st So Harding Card Weiss
 Syracuse, N.Y. 11234

Mr. Ralph A. Soldenberg
Executive Director
200 E. The Water Building
New York, N.Y. 10002

Queens University, School of
Graduate & Professional Arts
New York, N.Y. 10010

Bond, Schoenick & King, Esqs.
 William F. Schoenick, Esq.
 of counsel
 1000 State Power Building
 Syracuse, N.Y. 13202

Commissioner Jack M. Sabl
Division of Human Rights
170 Broadway
New York, N.Y.

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Coronet Hotel, Apt. 411
130 G Street NW
Washington, D. C. 20003

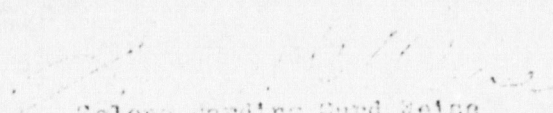
Mr. Lloyd L. Hurst, Chairman
State Human Rights Appeal Board
250 Broadway, 11th Floor
New York, New York 10007

Dear Mr. Hurst:

In your notice of adjournment, dated June 13, 1972, you mention no date to which the hearing is adjourned. I would be most grateful if you could tell me the period of time ^{for} which the university lawyers requested adjournment.

Thank you in advance for the information. It would aid me in formulating my own plans for the fall semester.

Sincerely,


Selena Harding Card Weise
(Mrs. R. L.)

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STATE OF NEW YORK: EXECUTIVE DEPARTMENT
STATE HUMAN RIGHTS APPEAL BOARD

STATE DIVISION OF HUMAN RIGHTS on the complaint
of EILENE HARDING CURD WEISE, Complainant-
Appellant, vs. SYRACUSE UNIVERSITY, SCHOOL OF
SPEECH AND DRAMATIC ARTS; PROFESSOR FAY IRWIN,
Acting Dean, CLIFFORD L. WINTERS, Acting Vice Provost;
DR. BEULAH POHRLICH, Department Chairman,
Respondents.

NOTICE OF HEARING

Case No. CS-21218-70
CS-22792-70
APPEAL NO. 1327

PLEASE TAKE NOTICE that the appeal in the above entitled case
will be heard by the State Human Rights Appeal Board before a member
who has been duly designated by the Chairman.

Such hearing will be held on THURSDAY, OCTOBER 19, 1972,
at 10:00 A.M., or as soon thereafter as counsel can be heard, at
THE STATE OFFICE BUILDING, 333 EAST WASHINGTON STREET, ROOM 2818,
8TH FLOOR, SYRACUSE, NEW YORK.

The calendar of cases will be called at 10:00 A.M., and parties
failing to appear will be noted as in default, unless they have
notified the board by mail or by telegram that they are submitting
on the record.

Briefs may be filed by the parties with the Board not less than
three (3) days prior to the date of the hearing. Four (4) copies of
such briefs must be so filed and copies must be forwarded to all
parties to the proceeding.

If oral argument with respect to such appeal is desired by any
party, notice thereof must be given to the Board at the time of
filing of briefs.

STATE HUMAN RIGHTS APPEAL BOARD

Dated: September 21, 1972,

By Lloyd L. Hurst
Lloyd L. Hurst, Chairman

Address: 250 Broadway, 11th Floor
New York, N. Y. 10007

TO:

Mrs. Eileen Harding Curd Weise
301 Salt Springs Road
Syracuse, New York 13234

Mr. Faith A. Seldenberg
1404 State Tower Building
Syracuse, New York 13202

Syracuse University, School of
Speech & Dramatic Arts
Syracuse, New York 13210

Dr. Fay L. Irwin, Acting Dean
Syracuse University, School of
Speech & Dramatic Arts
Syracuse, New York 13210

Dr. Clifford L. Winters, Acting
Vice-Provost
Syracuse University
Syracuse, New York 13210

Hon. Louis J. Lefkowitz
Attorney General
80 Centre Street
New York, N. Y. 10013

Dr. Beulah Pohrlich, Chairman
Department of Public Address
School of Speech and Dramatic Arts
Syracuse University
Syracuse, N. Y. 13210

Lord, Schoenck & King, Esqs.
William F. Fitzpatrick, Esq.,
of Counsel
1000 State Tower Building
Syracuse, New York 13202

Commissioner Jack H. Sable
Division of Human Rights
270 Broadway
New York, N.Y. 10007

Henry Spitz, Esq., General Counsel
Ann T. Anderson, Esq., of Counsel
Division of Human Rights
270 Broadway
New York, N. Y. 10007

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-6-

STATE DIVISION OF HUMAN RIGHTS
on the complaint of

CLARENCE HARDING CUTO WETSE

Complainant,

YONKERS UNIVERSITY CENTER, RAY TWIN,
DEPARTMENT OF SPEECH COMMUNICATION

COMPLAINANT NO.

Respondent.

phone number Cuto Wetsse

Residing at 301 Salt Springs Road, Syracuse
Syracuse University and Dr. Ray Twin, Chairman, Department of Speech
Communication

Tel No. 445-9437

whose address is Syracuse, New York

Tel No. 476-5541

with an individual discriminatory practice relating to employment on or about February 26, 1973
refusal to consider me for teaching assistantship and retaliating against me for
previously having filed a complaint with the New York State Division of Human Rights
because of my AGE (), RACE (), CREED (), COLOR (), NATIONAL ORIGIN (), SEX (X).
The particulars are:

I am a full time matriculated graduate student at Syracuse University.

On January 22, 1973, I addressed a letter to Dr. Ray Twin, Chairman, Department of
Speech Communication at Syracuse University requesting that I be considered for a teaching
assistantship in his department. I received no answer.

On February 26, 1974, I saw Dr. Twin in person at his office, and he informed me that
he had received my letter but refused to tell me whether or not I was being considered for
a teaching assistantship.

I then spoke to Dr. Paul Ried of the same department who advised me that it was the
policy of Dr. Twin that no doctoral students' applications for teaching assistantships
were considered by the department for the school year 1973-1974.

On March 1, 1974, and on March 1, 1974, Dr. Twin was given consideration to applications by male
graduate students for teaching assistantships, and he placed one of them on a full doctoral
assistantship. As the recipient of a teaching assistantship can still continue to receive
scholarship money until 1974 school year.

I am not the only person for the department applying for consideration for a teaching
assistantship. I have filed the following complaints with the New York State Division of
Human Rights: V-85-106-70 on 12/15/70; and V-85-1256-71 on 12/15/71.

I believe that the respondent's intentional acts of discrimination on violation of
the State of New York, by refusing to consider me for teaching assistantship
and retaliating against me for previously having filed these complaints
with the New York State Division of Human Rights. I am a woman.

I believe that the respondent's practice of refusing to consider me for teaching assistantship
is a discriminatory practice.

I believe that the respondent's practice of refusing to consider me for teaching assistantship
is a discriminatory practice.

NEW YORK STATE : EXECUTIVE DEPARTMENT
DIVISION OF HUMAN RIGHTS

SELENE HARDING CURD WEISE

Complainant

In all correspondence
please refer to:

SYRACUSE UNIVERSITY AND DR. RAY
IRWIN, CHAIRMAN, DEPARTMENT OF SPEECH
COMMUNICATION

Case No. V-CS-1811-73
CS-29486-73

Respondents

X

DETERMINATION AFTER INVESTIGATION

On February 26, 1973, Selene Harding Curd Weise, who is a woman, filed a verified complaint with the State Division of Human Rights charging the above-named respondents with an unlawful discriminatory practice relating to employment because of her sex and because she had previously filed a complaint with the State Division of Human Rights, in violation of the Human Rights Law of the State of New York.

After investigation, the Division of Human Rights has determined that it has jurisdiction in this matter and that there is probable cause to believe that the respondents have engaged in or are engaging in the unlawful discriminatory practice complained of.

Pursuant to Section 297.4.a of the Law, this matter is hereby recommended for public hearing. Parties will be advised of further proceedings.

Dated: April 25, 1973

STATE DIVISION OF HUMAN RIGHTS

By Neil M. Hoffman
Neil M. Hoffman, Regional Director

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TO: Mr. Selene Harding Carl Meina
301 Salt Springs Road
Syracuse, New York

Chancellor Melvin Eggers
Syracuse University
Syracuse, New York

Dr. Ray Irwin
Chairman
Department of Speech and
Communication
Syracuse University
Syracuse, New York

Mr. Norman T. Pinkard
Executive Director
Human Rights Commission of
Syracuse and Onondaga County
211 East Water Street
Syracuse, New York

April 17, 1973

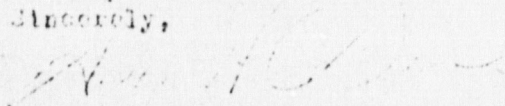
Mr. Lloyd L. Hurst, Chairman
State Human Rights Appeal Board
250 Broadway, 13th Floor
New York, New York 10007

Dear Mr. Hurst:

I filed an appeal with your office on the 2nd of May, 1972;
this is not two weeks short of one year that it has been in your
hands. It seems to me that one year from the date of filing and
six months since the date of hearing is more than adequate time
to reach a decision. I would appreciate it very much if I could
hear immediately when I can expect a decision.

With best regards,

Sincerely,


Selene Harding Card Weiss
(Mrs. H. R.)

301 Salt Springs Road
Springdale, New York 13224

Phone: 315 460-3437

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STATE HUMAN RIGHTS APPEAL BOARD

100 BROADWAY
NEW YORK, NEW YORK 10002
400-2000

Lloyd L. Hurst
Chairman

BOARD MEMBERS

Il. J. J. J.
Bernard S. Pacetta
Vidal Santanella

April 20, 1973

Ms. Selene Harding Curd Weise
301 Salt Springs Road
Syracuse, N. Y. 13224

Re: State Division of Human Rights
on the complaint of
Selene Harding Curd Weise,
Complainant-Appellant vs.
Syracuse University, School of
Speech and Dramatics Arts, et al,
Cases No. CS-21318-70, CS-22792-70
Appeal No. 1327 also Appeal No. 1353

Dear Ms. Weise:

Your letter of April 17, 1973 addressed to Hon. Lloyd L. Hurst,
Chairman of this Board, has been referred to me for reply. It
is expected that the decision in your appeal which was heard
on October 19, 1972 will be reached within the next two to
three weeks.

Very truly yours,

Emil Levin
Emil Levin
Member

ld

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STATE OF NEW YORK
Executive Department

STATE HUMAN RIGHTS APPEAL BOARD
250 Broadway--11th Floor
New York, N. Y. 10007
Tel: 488-2038 (area code 212)

To: All Parties to this Proceeding -- APPEAL NO. 1353

.....
.....

PLEASE TAKE NOTICE that herewith attached is the
Decision and Order of the State Human Rights Appeal Board.

ANY COMPLAINANT, RESPONDENT OR OTHER PERSON AGGRIEVED
BY THIS ORDER MAY OBTAIN JUDICIAL REVIEW THEREOF. Such
proceeding shall be brought in the Appellate Division of the
Supreme Court of the State in the appropriate judicial
department within 30 days of service of this Order. (See
Section 298, Human Rights Law.)

Attachment:

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STATE OF NEW YORK DEPARTMENT OF SOCIAL SERVICES
HUMAN RIGHTS DIVISION

LENE HARDING CARD VETER, Complainant-Appellant

O R D E R

vs.

ANTHONY P. VENTURA and MELVIN A. BOGDANS,
Respondents

Case No. C-25733-71

APPEAL NO. 1353

The above entitled appeal having come on before the Board on the 19th day of October 1972, and Lene Harding Card Veter, Complainant-Appellant, having appeared in person and having argued in her own behalf, and having submitted a brief in support of her position, and Respondents having appeared by Bond, Schoenock & King, Inc., by William J. Patricio, Esq., of Counsel, who argued in their behalf, and the State Division of Human Rights having appeared by Henry Spitz, Esq., General Counsel, who submitted on the record, and

The Board having reviewed the record herein and having read the brief of the Complainant-Appellant and having considered the arguments of the parties, and having decided that the Determination and Order of the State Division of Human Rights in dismissing the verified complaint of the Complainant-Appellant was not arbitrary, capricious, or abuse of discretion, it is

ORDERED that the Determination and Order of the State Division of Human Rights made herein on the 16th day of May 1972 be, and the same is hereby affirmed.

STATE HUMAN RIGHTS APPEAL BOARD

Richard L. Hunt
Richard L. Hunt
Chairman

Dated: June 1, 1973

To: (see attached list)

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Ms. Selene Harding Card Weise ✓
131 Salt Springs Road
Syracuse, N. Y. 13234

Faith A. Seidenberg, Esq.
1404 State Tower Building
Syracuse, N. Y. 13202

Syracuse University
Syracuse, N. Y. 13202
Att: Mr. Melvin A. Eggers, Chancellor

Messrs. Lord, Schoonack & King
1000 State Tower Building
Syracuse, N. Y. 13202
Att: William Fitzpatrick, Esq.

Commissioner Jack M. Sable
State Division of Human Rights
270 Broadway
New York, N. Y. 10007

Henry Spitz, Esq., General Counsel
State Division of Human Rights
270 Broadway
New York, N. Y. 10007

STATE OF NEW YORK: EXECUTIVE DEPARTMENT
STATE HUMAN RIGHTS APPEAL BOARD

SELENE HARDING CURD WEISE, Complainant-Appellant

D E C I S I O N

vs.

Case No. C-25738-71

SYRACUSE UNIVERSITY and MELVIN A. EGGEES,
Respondents

APPEAL NO. 1353

This is an appeal by Selene Harding Curd Weise, Complainant-Appellant, hereinafter called Appellant, from a Determination and Order After Investigation by the State Division of Human Rights dated May 16, 1972 dismissing the complaint wherein Appellant had charged the above named Respondents with an unlawful discriminatory practice relating to employment by retaliating against her for having previously filed a complaint with the New York State Division of Human Rights.

In her verified complaint sworn to the 1st day of December 1971 Appellant alleged, among other things, that she had filed complaints with the New York State Division of Human Rights, hereinafter called Division, against Respondent Syracuse University and one of its sub-divisions. Appellant further alleged that when she first arrived at Respondent University and obtained parking privileges she had been permitted to park on the campus by medical permit because she has asthma. As in the past, Appellant went to the Security Office in person to apply for her medical permit, and was advised to go to the Student Health Service and obtain a letter from a physician authorizing her special medical privileges on the campus. Appellant further alleged that she complied and was told by the secretary at the Security Office that she would be advised in about ten days about her parking. Appellant further alleged that on or about September 8, 1970 she left Syracuse to go abroad and then returned to Syracuse in October 1971. When she inquired about her special parking permit she was told it had been denied because there were fewer parking places and more applications. Because of her asthmatic condition it was suggested that she see Dr. Gracber, Chairman of University

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Parking, which she did. She next heard about her request on or about November 15, 1971, and during the period from October 19 until November 1 she had temporary parking privileges in lot A-6. Appellant also alleged that she was later informed that the best the Parking Committee could do was to authorize parking privileges to her in lot A-1 from 4:30 p.m. on from Mondays through Fridays. Appellant objected to this because she had to be on the campus many times before 4:30 p.m. Dr. Gracher, in response to her further inquiry, advised Appellant that she could write a letter to him with a list of her activities, and that she could come in daily to the Security Section and could check out what she was to do. Appellant was informed on or about November 23, 1971 that Dr. Gracher had authorized her parking privileges in lot A-1 after 4:00 p.m. five days a week, and that she could come in one day a week and give the Security Office a list of her activities for the week and the time required. Appellant further alleged that because of her prior approval for medical parking, and because of the events which have occurred since September 1971 and her prior complaints, that she concludes that the refusal of her request for medical parking is further retaliation against her; and because of her physical condition she seriously doubts her capability of accomplishing the necessary work for her degree; and Appellant charged the Respondents with an unlawful act of discrimination by retaliating against her for having previously filed a complaint with the New York State Division of Human Rights.

After investigation the Division determined that there was no probable cause to believe that the Respondents had engaged in the unlawful discriminatory practice complained of. The Division Order dated May 16, 1972 stated, among other things, that the investigation disclosed that eight students, diagnosed as asthmatics, applied for medical parking privileges in the 1971-72 school year and were refused. It is also stated therein that "no evidence was uncovered

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because she had previously filed a complaint." Documentary evidence in part of the record herein supports the finding that eight asthmatics had applied for medical parking permits and all eight were refused. The same procedure of refusal was also applied to several other categories of medical disability.

The Division investigation also revealed that campus parking has been severely curtailed because of new construction on the campus. The record also contains a copy of a letter from Dr. Rowland P. Graeber, Safety and Security Office, informing Appellant that the Parking Committee had granted her a medical permit for lot A-3 valid from 4:00 p.m. daily, and also a specific pass for those days on which her graduate student bodies would meet earlier than 4:00 p.m. which she could obtain by going once a week to get the specific passes needed. Appellant, it appears, wrote in reply to Dr. Graeber that the suggested plan was not satisfactory, for the reasons stated in her letter of December 10, 1971.

After reviewing the record herein, it does not appear to this Board that Respondents had unlawfully discriminated against Appellant in retaliation for her having previously filed a complaint with the State Division of Human Rights. Furthermore, there is reasonable support in the record for the Determination and Order of the Division.

Accordingly, the said Determination and Order of the State Division of Human Rights in dismissing the verified complaint herein was not arbitrary, capricious or abuse of discretion, and should be affirmed.

STATE HUMAN RIGHTS APPEAL BOARD

By Emil Levin
Emil Levin, Presiding Member

Dated: June 1, 1973

The following members concur in the foregoing decision and opinion:

Hon. Lloyd L. Hurst

Hon. Albert S. Pacetta

Hon. Irma Vidal Santacella

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Syracuse, New York 13224

Case Fax 2 1126

Mr. Daniel Eugene Mackey
District Director
Equal Employment Opportunity Commission
26 Federal Plaza, Room 4002
New York, New York 10007

Dear Mr. Mackey:

I filed a complaint with your office on the 12th of May, 1972, and it was given the number Fax 2 1126. As of this date I have heard nothing from you since the routine acknowledgment of the receipt of the complaint. I have since filed another charge with the New York State Division of Human Rights, dated February 26, 1973. I would like at this time to up-date and amend my first complaint with E.E.O.C. I have enclosed a copy of the complaint filed with the NY State Division. If additional material or forms are needed let me know, and I will comply. As you can see from the new complaint, I am still struggling to finish my Ph.D. and the University is still refusing to even consider me for a graduate assistantship, let alone any full-time employment.

I understand that E.E.O.C. has not been able to investigate any of the university complaints in the State of New York, and that they are not likely to be able to in the foreseeable future. If this be the case, I understand that a complainant may make her own way in Federal District Court with a release from the E.E.O.C. I would like to know how this release from E.E.O.C. is accomplished, and also how I might obtain the legal help from the Commission that the law provides for.

With best regards,

Sincerely,

Solene Harding Gurd Weiss
(Mrs. H. H.)

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June 12, 1973

Ms. Selene Harding Cord Weise
301 Salt Spring Road
Syracuse, New York 13224

RE: TEU3 0549 Syracuse University

Dear Ms. Weise:

We have received your letter to Daniel M. Mackey, District Director, New York District Office, enclosing a copy of your February 26, 1973, charge with the New York State Division of Human Rights.

As required by Title VII of the Civil Rights Act of 1964, amended, we are notifying the New York State Division of Human Rights that we are assuming jurisdiction over your charge since the State has had jurisdiction for more than the required 60 days.

We would appreciate it, however, if you will complete our charge form regarding the University's failure to hire you for a teaching assistantship because of your sex and retaliation against you for previously having filed complaints with the New York State Division of Human Rights and EEOC. A return envelope is provided for your convenience.

You question your right to proceed in Federal District Court. Section 706(F)(1) and the Commission's Regulations provide that at any time after the expiration of 180 days from the filing of a charge, an aggrieved person may demand in writing that the Commission issue a Notice of Right To Sue. If you request that EEOC issue such Notice, please be advised that such Notice will apply only to your early charge with us, TEU3 0097 (formerly TRY2 1126).

If you have any questions, do not hesitate to contact us.

Sincerely,

Lloyd G. Bell
LLOYD G. BELL
District Director

cc: Faith A. Seidenberg, Esq.

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CHIEF
30 WARREN ST
EAST, NEW YORK 13202
475-3127

June 22, 1973

Equal Employment Opportunity Commission
1 West Genesee Street
Buffalo, New York 14203

Att: Ms. Banks

Re: TRU3 0549 Syracuse University
TRU3 0097 Syracuse University

Dear Ms. Banks:

This letter will confirm our telephone conversation of June 12 or 19, 1973, wherein I sought to clarify the matter involving Ms. Weise's attempt to amend or up-date the original charge filed with the Commission. You may recall that you stated that her letter dated May 23, 1973, would be treated as a part of the original charge filed with the Commission (TRU3 0097).

As such, I hereby demand, on behalf of Ms. Weise, that the Commission issue her the 90 day NOTICE OF RIGHT TO SUE.

I have enclosed a copy of the addition to the original charge on a new charge form dated June 20, 1973.

Thank you for your cooperation in this matter.

Yours very truly,
ONONDAGA NEIGHBORHOOD
LEGAL SERVICES, INC.

By: Langston C. McKinney
Attorney at Law

LCM/vsa
Encl.

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June 29, 1973

Langston C. McFadden
Attorney-at-Law
1500 "B" Highway
1500 "B" Highway
1500 "B" Highway

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IN THE
UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF NEW YORK

CIVIL NO. 73 CV. 420

SELENE WEISE, etc., et. al.,

PLAINTIFFS

VS

SYRACUSE UNIVERSITY, etc.,
et. al.,

DEFENDANTS

AFFIDAVIT OF PLAINTIFF, SELENE
WEISE, IN OPPOSITION TO THE
DEFENDANTS' MOTION TO DISMISS

STATE OF NEW YORK)
COUNTY OF ONONDAGA)

SS.:

SELENE WEISE, being first duly sworn, deposes and says:

1. I am the individually named Plaintiff in this action.
2. I seek to prosecute this action for all women, similarly situated, to wit: women who have been discriminated against, by the Defendant University and the officials thereof, because of their sex in their appointment to faculty positions at said University, their termination from faculty positions with said University, and their promotion within faculty positions at said University.
3. I do not know how many women apply to said University each year for appointment to faculty positions thereat; however, I believe that approximately one hundred (100) women apply to said University for faculty positions thereat each year and that virtually all, or substantially all, are turned

down for appointment to faculty positions at said University because of their sex and not because of the absence of appropriate qualifications.

4. Furthermore, I have no way of knowing how many women have not even applied for appointment to faculty positions with said University because they have been deterred in doing so by the alleged sexually discriminatory policies, practices, and standards employed by said University in making such appointments; but I believe that such number runs into the hundreds over the last three years.

5. Furthermore, I have no way of knowing how many women have been terminated from faculty positions or denied tenure or promotion within said University over the last three years because of the alleged sexually discriminatory policies, practices and standards employed by the Defendant University in terminating said individuals or denying to them tenure or promotion within said University; however, I believe that such number runs into the hundreds.

6. I believe that at least six (6) women have filed either state and/or federal administrative complaints against the Defendant University alleging sex discrimination by said University over the last several years; however, in so asserting I do not submit that such a number represents the total number of complaints which have been filed or could have been filed by women against said University for its sexually discriminatory employment policies and practices.

7. While I was employed by said University as a graduate student teaching assistant, I taught two graduate level courses.

8. While I was employed by said Defendant University, as a graduate student/^{teaching}assistant, I taught the afore-mentioned graduate level courses because I was the ONLY PERSON qualified to teach said courses, including those persons who held position of professor, assistant professor and associate professor and including persons who held tenured faculty positions at said University.

9. While I was employed by said Defendant University, as a graduate student/^{teaching}assistant, I performed the same teaching duties and responsibilities as other faculty persons, including assistant professors, associate professors, full professors, some of whom were tenured faculty personnel.

10. While I was employed by said Defendant University and taught in the capacity as a graduate student/^{teaching}assistant, I considered myself, and was considered by others, to be a faculty member, in good standing, at said Defendant University.

SELENE WEISE

Sworn to and subscribed before me
this _____ day of November, 1973.

NOTARY PUBLIC

My Commission Expires: _____

IN THE
UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF NEW YORK

CIVIL NO. 73 Civ. 420

SEBENE WEISE, on behalf of herself
and on behalf of all persons
similarly situated,

PLAINTIFFS

-VS-

SYRACUSE UNIVERSITY, an educational
corporate entity, DR. MELVIN EGGERS,
Chancellor, DR. GIFFORD D. WINTERS,
Vice-Chancellor, DR. RAY IRWIN, DR.
BEULAH ROHRICH, and DR. PAUL RIED,

DEFENDANTS

PLAINTIFF'S SUPPLEMENTAL
MEMORANDUM IN OPPOSITION
TO THE DEFENDANTS' MOTION
TO DISMISS

This Memorandum is submitted as an additional supplement to the Plaintiff's initial memorandum in opposition to the Defendants' Motion to Dismiss. In particular it will focus upon the Fourteenth Amendment issue again raised by the Defendants in their Supplemental Memorandum, and the issue of Class Action.

The Defendants have stated that "Plaintiff is properly before this Court only with respect to her application for the position of teaching assistant in the Speech Communication Department."

The Plaintiff's case is a totality, beginning in the autumn of 1969, and continuing to the present time. The Plaintiff returned to Syracuse University in the autumn of 1969 as a full-time matriculated graduate student, a doctoral candidate for a Ph.D. degree with a major in Public Address. The Plaintiff is

still a full-time matriculated graduate student, a doctoral candidate for a Ph.D. degree with a major in Public Address. Her status has not changed. As a regular graduate student Plaintiff is still eligible for whatever teaching positions she is qualified to fill, just as she was in 1969. . Though she has from time to time sent letters to the Deans or Department Chairmen reminding them of the fact, this was not an essential prerequisite for her to be considered for any open position for which she was qualified.

The documents submitted with the original Affidavit in opposition to Defendants' Motion to Dismiss bear out the above facts. The first complaint filed with the New York State Division of Human Rights in June, 1970, charged discrimination based on sex. (See Exhibit "C", attached to Plaintiff's Affidavit). The second complaint filed with the State Division was filed December 16, 1970, and charged retaliation for having filed the original complaint. (See Exhibit "E" in same set of documents as above). During the public hearing on the original complaint, the attorney for the State Division moved to amend the above complaint, charging further retaliation (See Exhibit "G"). On December 1, 1971, complainant filed another complaint again charging retaliation. (See Exhibit "H"). On February 26, 1973, plaintiff filed another complaint with the State Division charging retaliation and discrimination based on sex.

It is clear from the above documents that the later offences resulted from the filing of the original complaint. One can scarcely charge retaliation unless there has been an initial act to retaliate against. This case has been a history of continuing discrimination and of continuing retaliation against the Plaintiff, not a series of discrete unrelated incidents. Therefore it is important to understand that the primary position for which the Plaintiff applied and was turned down, and for which

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she was and still is entirely qualified, was that of a regular full-time faculty member, eligible for tenure and all other regular faculty perquisites. The graduate assistantships, both the one she held and the one for which she explicitly applied in 1973, were in lieu of the regular faculty appointment. If the Plaintiff had been appointed to the faculty position for which she applied, there would never have been any question of her needing or accepting a teaching assistantship, which was at best a poor second, in terms of remuneration and privileges.

Therefore, as a person fully qualified to hold a regular faculty position, the Plaintiff is most certainly a proper representative of the class of female faculty and professional women, and/or prospective female faculty and professional women.

POINT II of DEFENDANTS' AMENDED MEMORANDUM

Defendants state: "Plaintiff has failed to show any state action at Syracuse University."

The Plaintiff herewith sets forth a brief analysis of some of the facts of state involvement in the affairs of Syracuse University, in particular, and all private colleges and universities in the State of New York, in general.

"The structure of higher education in New York is unique among the 50 states. A single administrative unit, the University of the State of New York, directed by a board of regents, has responsibility for all public and private higher education." (emphasis added). (Heinz Kulau and Harold Quinley, State Officials and Higher Education a General Report Prepared for the Carnegie Commission on Higher Education, 1970). This administrative structure is based on the statute law quoted in the Plaintiff's original Memorandum of Law on this same subject.

The history of higher education in New York shows that there was no state system of public higher education until 1948 with the founding of SUNY. Up to that time there had been a string of small state-supported normal schools in the rural areas of the state. It was not, however, until 1958 that SUNY began to attain its present form. Before that time, the state depended almost entirely on private colleges and universities to educate their young people after secondary school. It is within that framework that we must view the relationship between Syracuse University and the State of New York. As you know, prior to the decision reached in the Dartmouth case, states expected to help support their private colleges and universities. This system dates back prior to the Revolution, when the colonies helped to subsidize such universities as Harvard and Yale, as they did for Dartmouth. The system of state grants to private universities and colleges goes back to the Middle Ages in England, when the rulers endowed colleges, and then continued to help support them. The system still prevails in England in a modified form. However, the system died out in most of the original states in the United States, except for New York which maintained virtually intact the one that obtained prior to the Revolution. In other words during the years that other states were founding land grant colleges and state university systems, New York was enhancing and supporting the system of private colleges and universities that they already had. When SUNY was founded, it was added to the system already in existence.

This accounts for such statements as one finds in Higher Education in the United States (Otto Feinstein, Heath Lexington Books, 1971). "The schools (private universities) feared that the significant development of a state university system would be

seriously detrimental to their power, prestige, and economic condition. This particular hostility was further enhanced by the presence, as state budget directors, of professors from Cornell and Syracuse Universities." "Shortly after the Plaintiff arrived on the Syracuse University campus, she learned that Stephen Bailey, Dean of the Syracuse University Maxwell School, was also a member of the New York State Board of Regents. It is also understood that the late James Allen, former Commissioner of Education for the State of New York, had been affiliated with Syracuse University. Given the existing frame-work there was great justification in using educators from private universities as members of the Board of Regents and other high offices in the state. Where else would they have come from? However, though, it indicates the close relationship between the State of New York Education Department and Syracuse University.

Bearing in mind the history of a public system being added to the already existing private system, let us examine some of the points Judge Foley has raised in his opinion in re Jo Davis Mortenson (73-CV-545). In his opinion Judge Foley quotes five criteria for State involvement from the case of Jackson v. the Statler Hilton Foundation (slip op. 2741, 2750 [Decided Dec. 4, 1973; Revised April 5, 1974]): "(1) the degree to which the 'private' organization is dependent on governmental aid; (2) the extent and intrusiveness of governmental regulatory scheme; (3) whether that scheme connotes governmental approval of the activity or whether the assistance is merely provided to all without such connotation; (4) the extent to which the organization serves a public function or acts as a surrogate for the State; (5) whether the organization has legitimate claims to recognition as a 'private' organization in associational or other constitutional terms."

In the case, Ryan v. Hofstra, 324 NYS 2d 964, the opinion, a long and complex one, lists seven criteria for establishing the degree of government aid, Judge Foley's first point: 1. Dormitory Authority; 2. Governmental Grants; 3. State Scholar Incentive Awards to New York State residents; 4. Federal Construction Money; 5. Land(when obtained); 6. Tax Exemption; 7. Federal and State Funded Programs.

It should be pointed out before fitting the criteria to the facts, that the facts given here are most meagre, and are given as indicators of where to look for the rest.

1. In the case of Syracuse University, many dormitories were built under the auspices of the New York State Dormitory Authority, (either fully or partially funded). Brewster-Boland-Brockway; Booth Garage; Syracuse University Research Corporation; Slocum Heights; Utica College and Sky Top. It is believed that about \$30 million dollars are still outstanding. It is not known what the buildings were financed for in the first place. Also, this list is not believed to be all-inclusive. According to the Dormitory Authorities Act, Eff. April 24, 1957, Section 1685, Exemptions from Taxation, it is stated: "It is hereby found, determined and declared that the creation of the Authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York, for the improvement of their education, welfare and prosperity, and is a public purpose, and that the dormitories of the Authority are an essential part of the state education system, and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title, and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this title, and the state of New York covenants with the holders of the bonds (what private entity can have tax-free bonds sold in its behalf)? that the Authority shall be required to pay no taxes or

assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision or upon its activities in the operation and maintenance of such dormitories or any moneys, revenues, or other income received by the Authority and that the bonds of the Authority and the income therefrom shall at all times be exempt from taxation, except for transfer and estate taxes." This gives a brief statement of the purposes of the Authority.

The Dormitory Authority Act covers the building of dormitories for not only state owned, controlled and contracted schools, but for all private universities and colleges as well. Under that Authority, schools have the choice of having the dormitories built and operated by the Authority and leased to the college, or of having the money loaned to the college or university in question; then the institution builds its own buildings under the direction and supervision of the Authority, and subject to its rules and regulations. In the case of Syracuse, the money was loaned and the buildings constructed by the University.

2. Governmental Grants: In the Carnegie Commission Report on Federal Support to Colleges and Universities, 1972 there is a listing of the different types of institutions of higher education receiving Federal Government Support. The list is headed by the large research universities giving the doctoral degree; these are listed in order of amount and percentage of support given. Though universities are not given by name, and the data is given in averages and approximations, it is believed that Syracuse University fits into that first category which receives approximately 52 per cent of its total operating budgets each year from the Federal Government.

New York State gives direct grants to private universities, and they are known as "Bundy Money." These are given in direct proportion to the number of degrees granted each year, \$400 for each bachelor's degree and \$2400 for each graduate degree. There may be other state grants other than Bundy Money.

3. Scholar Incentive Awards. According to the Rules, Chapter II, Commissioner's Regulation, Subchapter I, Scholarships and Grants, Part 145, Regents Scholarships and Scholar Incentive Awards are made to New York State residents attending institutions of higher education in the State of New York. Any New York State resident is eligible to apply. Though Regents Scholarships are for academic excellence, the Scholar Incentive Awards are given for financial need.

At Syracuse University, out of a total enrollment of 19,355 for the fall semester of 1973, 13,560 students are New York State residents and eligible to apply. That number includes all students matriculated at Syracuse, graduate and under-graduate, full and part time and law students. That is 70 per cent of the total enrollment. These figures were obtained from The Syracuse University Planning Board.

On the federal level there have been the National Defence Educational Administration loan funds and scholarship awards, Also there are ^{other} loan funds from both state and federal government, as well as direct tuition grants for various special groups of students, handicapped, those in health care fields, the disadvantaged, and numerous others, too numerous to mention. From the federal government are also the matching funds used for the work/study programs.

4. Federal Construction Money. It is believed that some buildings at Syracuse University have been financed through the Housing and Home Finance Agency, now the Department of Housing and Urban Development.

5. Land. The original Syracuse University tract, it is understood was donated to the University. However, there have been some tracts that have come to the University through various urban development schemes. However, it is understood that much land has come from other sources, and virtually all of it is tax free.

6. Tax Exemption. All land coming under the Dormitory Authority is tax free, as well as the land used for educational purposes.

All gifts to the University are tax exempt, i.e. money given directly in to general funds, endowments, manuscripts, rare books, art collections, etc.

7. Federal and state funded programs, as mentioned above the figure from the federal government may be as high as 52 per cent of the total operating budget.

Though all of the above figures are believed to be as correct as possible, it should be realized that there is limited access on the part of the general public to much of the material. However the importance of them is to impress upon the Court the enormous complexity of the funding of a very large university, and the necessity, if a fair judgment is to be reached, of a thorough exploration of all of the facts.

Taking all things together, the question needs to be asked: Could Syracuse University Operate Without State and/or Federal Support and tax Exempt Private Support? I firmly believe that it would not be possible, particularly at the present time.

(2) The extent and intrusiveness of the governmental regulatory scheme:

The most important point in the operation of Syracuse University, an independent institution, is that in the State of New York, independence does not extend to education policy. The independent institutions of higher education in New York operate under the same laws as do state controlled schools.

In New York we have the most rigid quality control of any state in the nation. "The role of the Regents in higher education, simply stated, is to see that there is effective expansion and development of higher education in New York State. Explicitly, this relates to the need to provide places and programs to meet the increased demand for education beyond high school. Implicit in the statement, and of greater concern to the Regents, is the maintenance of academic quality...The Regents quality control

18.9

function is carried out in three separate but inter-related ways; chartering of institutions and registering of individual programs, visitation and evaluation of institutions, and setting degree requirements and licensing the professions." (The Regents Statewide Plan for the Expansion and Development of Higher Education, 1968, published by The University of the State of New York, the State Education Department, Albany, New York, March 1969, p.1)

In Part 5, Section 52.2 in the Rules, under the authority of the Education Law:

"Standards for the Registration of Undergraduate and Graduate Curricula...

"(c) Faculty Each member of the academic staff shall have demonstrated by his training, earned degrees, scholarship, experience, and by classroom performance or other evidence of teaching potential, his competence to offer the courses and discharge the other academic responsibilities which are assigned to him..."

This section is administered in the following manner:

In Section 3.3 of the same Rules, it is stated that there is a Committee of the Board of Regents on Higher and Professional Education appointed by the chancellor of The University of the State of New York, State Education Department, of which the chancellor and vice chancellor shall be ex officio members. This Committee on Higher and Professional Education is responsible for:

"Coordination of planning and development in higher and professional education, including State University, City University of New York and privately controlled institutions.

"Curriculum and supervision in higher and professional education

"Examination, testing and student financial assistance in

higher education etc."

All of these functions are actively pursued by the administrative staff of the Education Department in Albany.

More under point (2) of Judge Foley's opinion, we have a second area that is controlled by the State, in addition to academic matters, and that is the area of Civil Rights in Education. There are three sets of laws which cover civil rights in educational institutions:

1. Education Law
2. Civil Rights Law
3. Human Rights Law (Executive)

1. Section 3201, Education Law, Vol. 16, McKinney

"No person shall be refused admission into or be excluded admission into or be excluded from any public school in the State of New York on account of race, creed, color or national origin."

Excludes sex

Section 313 of Education Law, "Declaration of policy. It is hereby declared to be the policy of the state that the American ideal of equality of opportunity requires that students, otherwise qualified, be admitted to educational institutions without regard to race, color, religion, creed or national origin."

Excludes sex

The Regents Plan page 3, "...a major goal is the limitation of barriers (race, creed, national origin, residence, and economic resources) to higher education." Excludes sex

2. Civil Rights Law, Vol. 8 McKinney, Section 40-c Discrimination "All persons within the jurisdiction of this state shall be entitled to the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, creed, color or national origin, be subjected to any discrimination in his civil rights by any other person or by any

firm, corporation or institution, or by the state or any agency or subdivision of the state." Excludes Sex; section 40 of the Civil Rights law includes educational institutions under places of public accommodation.

3. Human Rights Law, Executive Law, Vol. 18, McKinney, #290 "Equality of Opportunity a Civil Right.

"1. The opportunity to obtain employment without discrimination because of race, creed, sex, color or national origin is hereby recognized as and declared to be a civil right.

"2. The opportunity to obtain education, the use of places of public accommodation and the ownership, use and occupancy of housing accommodations and commercial space without discrimination because of race, creed, color or national origin as specified in section two hundred ninety-six of this article, is hereby recognized as and declared to be a civil right." Excludes Sex

Executive Law #296 was amended in 1973 to include sex in public accommodations and housing etc., but in that law places of education were omitted from places of public accommodation.

There is here a very clear but unstated policy of exclusion of sex as a forbidden designation in matters of education. Though the employment section of the Human Rights law covers educational employment, it does not do so explicitly, and a careful perusal of the statistics on employment of women faculty in institutions of higher education in this state, and of Civil Rights case law in the state, will show that the law is not being enforced for faculty in higher education. Thus, all of these matters of both Civil rights and Education come under "color, or statute, regulation, custom and usage," of the Fourteenth Amendment.

(3) whether that scheme (see Education Law discussion above) connotes government approval of the activity or whether the assistance is merely provided to all without such connotation.

The answer to that question can be found in the Rules, Chapter IV, Appeals and Other Proceedings Before the Commissioner, Statutory Authority, Education Law #311, Part 275. This is a detailed section on administrative procedures in cases of a desire to appeal rulings by the Regents etc. It can also be used to register complaints against education officers, etc.

In matters covered by Civil Rights Laws, the Civil Rights Law itself, and the Human Rights Laws, the procedures are certainly not pro forma, the Division of Human Rights, like the Education Department has its own administrative procedures, and the enforcement of the Civil Rights law is handled through the court.

The conclusion is inescapable that the State's concern with both education and civil rights is an active one, energetically pursued.

(4) the extent to which the organization serves a public function or acts as a surrogate for the State; This point has been covered thoroughly in the Plaintiff's Memorandum in Opposition to Defendants' Motion to Dismiss, see: page 16, and the general discussion above.

(5) whether the organization has legitimate claims to recognition as a "private" organization in associational or other constitutional terms. The University most definitely has areas of private concern, but they are not under the rubric of education, the purpose for which the institution exists, nor under civil rights, which is what this case is about.

A most useful legal opinion on this subject is from Van v. Hofstra, mentioned above. This was the case of a 19-year-old student who threw a rock through the bookstore window at Hofstra during the disturbances of 1970.

"...private connotes ownership or possession by somebody. No private person owns Hofstra University or its property directly, nor even indirectly in the form of shares of stock. The uni-

versity is replete with public interest, requirement and supervision. The university is in the most real comparable sense a public trust for the rendition of education. It is only for this reason that so much public wealth and effort has been supplied to it.

"A private university like Hofstra is an oligarchical form tending to be self-perpetuating. Its fundamental legal responsibilities are to the public. Its existence and favored position can be justified only as a public stewardship.

"Hofstra operates under a franchise from the New York State Board of Regents. Under Educational Law #219, the Board of Regents can move to dissolve the university corporation if it ceases its educational functions. There would then follow a distribution of its net assets to such educational, religious, benevolent, charitable or similar purposes as the courts might approve, Educational Law #220."

If one asks the question: in what ways do public and private colleges and universities in the State of New York differ one from the other in matters of academic policy and discrimination, the answer is: there is no difference.

If one asks the question: in what ways do private colleges and universities in the State of New York differ from those in other states: the answer is: in several important ways:

There are only four states in the nation which have state supervision of private education, New York, Connecticut, New Jersey and Oklahoma. However, unlike the other three, New York's supervisory body is 190 years old, the next oldest is Connecticut, which is 33 years old. The other two have been formed within the past ten years.

It is the only state that has a system of direct State grants to private colleges and universities;

It is the state with the largest system of direct state

tuition aid to students in private institutions of higher education.

Of particular relevance to the instant case are the following points:

1. The Plaintiff has charged in her complaint that the man hired in her stead was an incompetent. The competence of faculty, as already shown, in institutions of higher education is clearly a matter of the greatest concern to the Board of Regents. Therefore this is not a private matter within the University, but is explicitly covered by state regulations having the force of law.

The following are the facts:

In paragraph 16 of the original complaint filed with this court the Plaintiff states:

"16. Thereafter, the afore-mentioned faculty position of Lecturer in the Department of Public Address was given to Mr. Anthony Cusmano, a male and first-year master's candidate in speech, with neither a B.A. nor a M.A. degree, but a degree from New York Law School, a school not recognized at that time by the American Association of Law Schools. Mr. Cusmano had not passed the New York Bar Examination nor had he had any previous teaching experience or academic work in the field of speech."

Therefore, in the complaint we cover three of the four points mentioned in the Rules. On training, he had none; earned degrees, he had none from a recognized college or university; scholarship, is covered in the records made part of the sworn testimony in the Public Hearing of the New York State Division of Human Rights. (See: Exhibits "9, 10, and 11" Transcript of public hearing, State Division of Human Rights, Case No. CS-21318-70, December 7, 1970)

The record shows that he had less than two years towards an undergraduate degree at Bethany College when he was admitted to Law School, and that his grades from Bethany were too low for him to be re-admitted to that school, or to be matriculated as a student at New York University where he took some hours as a non-matriculated undergraduate student. His LLB was not convertible to a JD because of this deficiency, and he was never able to pass the New York Bar Exam; Experience and classroom performance, he had no experience and his class room performance is not known, but his contract with Syracuse University was not renewed at the end of two years. Mr. Cusmano never attained either the M.A. in Speech which was the degree he initially sought, nor the degree in Higher Education Administration, the program he entered after he left the Department of Public Address.

2. On page 2 of Judge Foley's opinion in the Mortenson case he states: "the state must exert direct influence or control in the activity." Because in New York State the Board of Regents sets and enforces over-all educational policy at Syracuse University rather than the Trustees of the University, makes the State, in the most direct manner, the controlling agent of the activity in question, which is the selection of teachers.

3. The Plaintiff has charged in her complaint that she was discriminated against because of her sex. Discriminatory behavior is the activity complained of, and the State of New York has covered discriminatory activity in educational institutions in three sets of laws. Therefore, the State's explicit and statutory indifference to the educational rights of women was clearly the cause of the discriminatory behavior complained of.

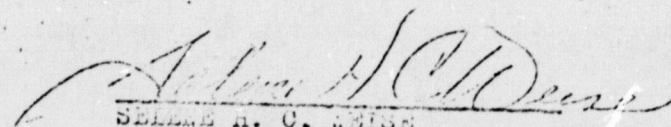
There are two inescapable conclusions to be drawn from the above material, one is that the reason for being of private universities in the State of New York, i.e. education, is totally controlled by the State Government, and there can be no question of that fact. The second conclusion is that civil rights in

educational institutions is also controlled by the State, and those laws have all but explicitly excluded sex from forbidden designations in matters of education. Therefore, it is apparent that the State of New York maintains a lively, knowledgeable and direct concern in matters both of Education and of Civil Rights in Education, and it is with the statutory approval of the State of New York that Syracuse University has and continues to discriminate against women in all facets of University life. Also the State Courts of New York have upheld the State indifference to the employment of women faculty in higher education.

On page 8 of the Defendants' Supplemental Memorandum in Support of Motion to Dismiss, Defendants state: "...More importantly, however, plaintiff is incorrect in her attempt to equate racial and sexual discrimination."

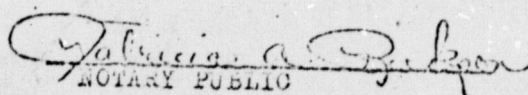
In the Federal Civil Rights laws, the designation of sex is included along with all the others, there is no rank ordering, giving race a higher priority than sex, or sex a higher priority than national origin or religion. All are stated equally. If one were to follow through on the logic of the Defendants' arguments, it could be said that since black or Spanish surnamed women are covered under other designations that there is a clear intent to make discrimination against white, Anglo-Saxon, protestant females permissible. From the legislative history of the 1972 Amendment to Title VII of the Civil Rights Act of 1964, it is abundantly clear that such was not the intention of Congress. "This Committee (House Committee on Education and Labor) believes that women's rights are not judicial diversions. Discrimination against women is no less serious than other forms of prohibited employment practices and is to be accorded the same degree of social concern given to any type of unlawful discrimination...the Committee feels that discrimination in edu-

national institutions is especially critical. The Committee can not imagine a more sensitive area than educational institutions where the Nation's youth are exposed to a multitude of ideas that will strongly influence their future development. To permit discrimination here would, more than in any other area, tend to promote misconceptions leading to future patterns of discrimination." (Legislative History of Amendment [P.L. 92-264] to Title VII, p 2154)


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FOR HERSELF

Sworn to and subscribed before me
this 3rd day of June, 1974


PATRICIA A. DICKSON
NOTARY PUBLIC

PATRICIA A. DICKSON
Notary Public, State of New York
Qualified in Chautauq County

My Commission Expires: March 22, 1976

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